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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Juan Carlos Trejo-Bautista,

Petitioner,

-against-

Donald J. Trump, in his official capacity as President of the United States; **Acting Director of the Phoenix Field Office** for U.S. Immigration and Customs Enforcement; **Todd M. Lyons**, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; **Pete R. Flores**, in his official capacity as Acting Commissioner for U.S. Customs and Border Protections; **Krisi Noem**, in her official capacity as Secretary of the United States Department of Homeland Security; **Marco Rubio**, in his official capacity as Secretary of State; **Pamela Bondi**, in her official capacity as U.S. Attorney General.

Respondents.

Case No.: 1:26-cv-20376-KMW

PETITIONER'S VERIFIED MOTION FOR ATTORNEY'S FEES
AND INCORPORATED MEMORANDUM OF LAW

Now comes Petitioner, Juan Carlos Trejo-Bautista ("Mr. Trejo-Bautista" or "Petitioner"), by and through his undersigned Counsel and pursuant to 28 U.S.C. § 2412(d), respectfully requests this honorable Court to grant his attorneys fees under the Equal Access to Justice Act ("EAJA") in the amount of **$7,577.48**. The grounds supporting this motion are set forth herein in the incorporated Memorandum of Law in Support of Petitioner's Motion for Attorneys' Fees.

BACKGROUND

Mr. Trejo-Bautista is currently seeking relief from removal through his application for asylum, withholding of removal, and protection under the Convention Against Torture. He was, however, recently detained by immigration authorities without a bond hearing. Mr. Trejo-Bautista finally received a bond hearing and was released from detention after this Court granted his Petition for Writ of Habeas Corpus ("Habeas Petition").

Mr. Trejo-Bautista filed his Habeas Petition with accompanying Motion for Temporary Restraining Order ("TRO") in this Court on January 22, 2026, therein seeking a bond hearing relative to his detention. The Department of Homeland Security ("the Department" or "DHS") filed an Opposition to Petition for Habeas Corpus ("Opposition") on February 13, 2026. Mr. Trejo-Bautista then filed a Reply to Respondent's Opposition to Petition for Habeas Corpus on February 17, 2026. This Court granted Mr. Trejo-Bautista's Habeas petition on March 4, 2026, ordering the Immigration Court to provide him with a bond hearing. Mr. Trejo-Bautista then had a bond hearing, wherein he was ordered released under a cash bond.

DISCUSSION

I. THE EQUAL ACCESS TO JUSTICE ACT ENTITLES MR. TREJO-BAUTISTA TO AN AWARD OF REASONABLE ATTORNEYS' FEES FROM THE UNITED STATES.

Mr. Trejo-Bautista seeks the recovery of reasonable attorneys' fees incurred on his behalf form the United States under the EAJA, at 28 U.S.C. § 2412. The EAJA provides, in pertinent part, that:

> A court shall award to the prevailing party ... fees and other expenses, ... incurred by that party in any civil action ... brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

28 U.S.C. § 2412(d)(1)(A).

In order to be granted EAJA fees and expenses, the moving party must demonstrate that they are a "prevailing party" within the meaning of EAJA. If this status is demonstrated, the Government may avoid a judgment in the movant's favor only if it demonstrates that its position was substantially justified, or that there are circumstances that make an award against the Government unjust. *Jean v. Nelson*, 863 F.2d 759, 765 (11th Cir. 1988).

In the instant matter, Mr. Trejo-Bautista's legal arguments presented throughout the course of litigation satisfy each of the above criteria for an award of attorneys' fees under the EAJA. Mr. Trejo-Bautista undisputedly prevailed on the merits of his Habeas Petition. Furthermore, as demonstrated below, the Government cannot carry its considerable burden to prove that its position was substantially justified. Finally, Mr. Trejo-Bautista has demonstrated that he meets the net worth requirement under 28 U.S.C. § 2412(d)(1)(B) and has timely filed this motion under 28 U.S.C. § 2412(c)(2)(B).

a. Mr. Trejo-Bautista is a Prevailing Party Under EAJA.

To obtain an award of attorneys' fees and expenses under EAJA, the movant must demonstrate that they were the "prevailing party" within the meaning of the Act. *Buckhannon Bd. and Care Home, Inc. v. W. Va. Dep't of Health*, 532 U.S. 598, 603 (2001). A prevailing party is one

who "has been awarded some relief by a court." *Id.* at 603. In addition, "it is well established that a party need not obtain relief on every claim or legal theory … in order to be considered prevailing under a fee-shifting statute." *Jean*, 863 F.2d at 766 (internal quotations omitted).

Here, the Court granted Mr. Trejo-Bautista the relief he sought in his Habeas Petition and ordered a bond hearing, wherein bond was granted and he was released from custody. His status as a prevailing party is beyond dispute, accordingly. *See e.g., Oscar v. Gillen*, 595 F. Supp 2d 166, 169 (D. Mass. 2009) (finding petitioner, who filed a habeas petition and successfully challenged his confinement in immigration detention without a bond hearing to be the "prevailing party"); *Geegbae v. McDonald*, 2011 WL 841237, at *1 (D. Mass. March 8, 2011) (a party who has successfully petitioned for a writ of habeas corpus is a "prevailing party"); *Muhur v. Ashcroft*, 382 F.3d 653, 654-55 (7th Cir. 2004) (grant of remand to BIA confers status as prevailing party); *accord Johnson v. Gonzalez*, 416 F.3d 205, 209-10 (3d Cir. 2005); *Rueda-Menicucci v. INS*, 132 F.3d 493, 495 (9th Cir. 1997).

b. The Government Cannot Meet Its Burden to Prove Substantial Justification.

Once the party seeking fees establishes prevailing party status, the Government can only avoid a judgment of EAJA fees if it can demonstrate that its pre-litigation and litigation positions were substantially justified. *See Comm'r, INS v. Jean*, 496 U.S. 154, 159 (1990). Substantial justification means "justified in substance or in the main – that is, justified to a degree that would satisfy a reasonable person." *Pierce v. Underwood*, 487 U.S. 552, 565 (1998); *see also Jean*, 863 F.2d at 767, *aff'd, Commissioner, INS v. Jean*, 496 U.S. 154 (1990) ("Substantial justification" is determined by a standard of "reasonableness"). The Government's position must have a "reasonable basis both in *law and fact*." *Pierce*, 487 U.S. at 553 (emphasis added). To demonstrate

substantial justification, the Government must make a "strong showing." *S&H Riggers & Erectors, Inc. v. Occupational Safety & Health Review Comm'n*, 672 F.2d 426, 430 (5th Cir. Unit B 1982).

An inquiry relative to the reasonability of the Government's actions must weigh several factors, such as: (1) the state at which the litigation was resolved; (2) views expressed by other courts; (3) the legal merits of the Government's position; (4) the clarity of governing law; (5) the foreseeable length and complexity of litigation; and (6) the consistency of the Government's position. *Jean*, 863 F.2d at 767-68. In determining whether the position of the United States was substantially justified, the court must evaluate not only the Government's position, but also the underlying erroneous decision or action of the Government agency upon which the civil action is based. 28 U.S.C. § 2412(d)(2)(D); *Jean*, 496 U.S. at 160; *United States v. Certain Real Estate Property*, 838 F.2d 1558, 1562 (11th Cir. 1988); *Stratton v. Bowen*, 827 F.2d 1447, 1449 n.2 (11th Cir. 1987). Some circuits have found that the Government's position lacks substantial justification where it violates the Constitution, a statute, or governing regulations. *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") (quotation omitted); *Cornella v. Schweiker*, 728 F.2d 978, 985 (8th Cir. 1984) ("It was not reasonable for the Secretary to ignore her own regulations.").

In the instant matter, the Government cannot demonstrate substantial justification in arbitrarily applying the mandatory detention framework of 8 U.S.C. § 1225(b)(2) to an individual, who like Mr. Trejo-Bautista, has lived in the United States for years and whose arrest occurred without any material change in circumstances that might rationally justify his loss of personal liberty. In so doing, the Government ignores decades of established application of the statutory framework created by Congress, let alone the vast and overwhelming majority of district courts

across this country, including this Court, that have ruled such application of mandatory detention violative of one's right to due process under the U.S. Constitution. *See, e.g.*, *Echevarria v. Bondi*, No. 2:25-cv-03252-PHX-DWL, 2025 WL 2821282 (D. Ariz. 2025); *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Document 94 (C.D. Cal. Dec. 18, 2025); *Rosado v. Figueroa*, No. CV 25-02157-PHX-DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Luis v. Trump*, No. 2:25-cv-921-wks, 2025 WL 3763397

(D. Vt. Dec. 30, 2025); *Ruiz v. Trump*, No. 2:26-cv-12, 2026 WL 323254, (D. Vt. Feb. 6, 2026); *Moncada-Hernandez v. Trump*, No. 26-cv-00436-PAB, 2026 WL 472744 (D. Colo. Feb. 19, 2026); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same). The Government's position both prior to the litigation, and during the litigation itself, was demonstrably unreasonable. This issue is hardly novel, either. With over 3,500 district court decisions holding that the Government's sudden and novel reinterpretation of a well-established statutory framework is *wrong* and *unconstitutional*, it stands that the continued application of their demonstrably unlawful policy was and remains objectively unreasonable, such that it cannot be rationally justified within the four corners of the law. The Government cannot reasonably posit any remaining statutory ambiguity existed here.

c. There Are No Special Circumstances That Would Make an Award Against the Government Unjust.

A court may deny attorneys' fees even if the Government's position was not substantially justified if "special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). The Government bears the burden of establishing such special circumstances. *U.S. v. Jones*, 125 F.3d 1418, 1425 (11th Cir. 1997). Special circumstances include the Government advancing in good faith novel but credible extensions and interpretations of the law. H.R. Rep. No. 96-1418, 11, 86th Cong., 1980 U.S.C.C.A.N. 4984, 4990. This provision is narrowly construed so as not to interfere or defeat Congress' purpose in enacting EAJA. *Martin v. Heckler*, 773 F.2d 1145, 1149 (11th Cir. 1985), overruled on other grounds by *Texas State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 784 (1989) (overruling the court's standard for determining prevailing party status under

the Civil Rights Attorney's Fees Awards Act). The "special circumstances" defense was not intended to be applied across-the-board to an entire class of cases, but rather to prevent injustice in a particular case. *NAM v. DOL*, 159 F.3d 597, 606 (D.C. Cir. 1998).

Here, the Government can point to no special circumstance militating against an EAJA fee award. The Government ignored decades of established law, the plain language of the statute, and the decisions of dozens of district courts across the country rejecting the Government's novel reinterpretation of the statute. The Government cannot, therefore, claim that its position in defending the instant lawsuit was substantially justified in either law or fact, nor that there are special circumstances that make an award against the Government unjust.

d. Mr. Trejo-Bautista's Application is Timely Filed.

Mr. Trejo-Bautista's Motion for Attorneys' Fees is timely filed. Section 28 U.S.C. § 2412(d)(1)(B) requires fee applications to be filed within 30 days of "final judgment" in the action. A final judgment means a judgment that is final and not appealable. 28 U.S.C. § 2412(d)(2)(G). The District Court for the Southern District of Florida granted Mr. Trejo-Bautista's Habeas Petition on March 4, 2026, and no appeal was reserved. The motion has therefore been filed within the statutory window of 30 days from the date of final judgment.

e. Petitioner Meets the Net-Worth Requirement of the EAJA.

Eligibility for an award under EAJA depends upon a petitioner's net worth, which must not exceed $2,000,000 "at the time the civil action was filed." 28 U.S.C. § 2412(d)(2)(B). Here, Mr. Trejo-Bautista is eligible for EAJA fees because his net worth was well below the threshold of $2,000,000 when he filed his petition for Writ of Habeas Corpus. *See* Exh. 1 – Sworn Declaration of Juan Carlos Trejo-Bautista.

II. Mr. Trejo-Bautista Requests Reasonable Attorney's Fees.

Prevailing parties are entitled to be compensated for all time reasonably spent in litigating the matter, including time spent on a motion for attorney fees. *See Comm'r. I.N.S. v. Jean*, 496 U.S. 154 at 163-65. Mr. Trejo-Bautista requests attorney fees from the United States in the amount of $7,577.48 for the reasons stated below.

a. Petitioner's Counsel is Providing Herein a Statement of Attorney Hours and Fees as Required Under 28 U.S.C. § 2412(d)(1)(B).

A claim for attorneys' fees and recoverable expenses under EAJA must include a statement for any attorney indicating the actual time expended and the rate at which the fees and recoverable expenses were computed. 28 U.S.C. § 2412(d)(1)(B). Included herein are: declarations of all attorneys and billing statements of attorneys who worked on this case, both federally barred and immigration consultants to the federally barred attorney. *See* Exh. 2 – Declaration of Attorney Sylvia Duluc-Silva; Exh. 3 – Billing Statements.

b. This Court Should Award Attorneys' Fees Above the Statutory Limit for Attorney Sylvia Duluc-Silva on the Cost-of-Living Adjustment.

Congress has set a statutory cap for attorneys' fees at a rate of one hundred twenty-five dollars ($125.00) per hour *unless* the Court determines that an increase in the cost of living or a special factor permits a higher fee. 28 U.S.C. § 2412(d)(2)(A) (emphasis added).[1]

Under *Pierce*, this Court must engage in a two-step analysis in determining fees for attorneys. *Jean*, 863 F.2d at 773-74. First the Court must determine the prevailing market rates for the kind and quality of the services furnished by Counsel. *Id.* at 773. Once the prevailing market

[1] EAJA was originally enacted in October of 1981 and provided for a $75 fee cap. *Jean v. Nelson*, 863 F.2d at 774. However, EAJA was amended on March 29, 1996, and for the cases commenced on or after this date, the statutory hourly rate is $125. *Id.*

rate is determined, if it is above one hundred and twenty-five dollars ($125.00) per hour, the Court must award a minimum rate of one hundred twenty-five dollars ($125.00) per hour. *Id.* However, the Court should also determine whether a party is entitled to more based on either special factors or cost-of-living adjustments. *Id.* EAJA expressly provides for such an adjustment. *See* 28 U.S.C. § 2412(d)(2)(A)(ii).

The attached declaration of attorney Sylvia Duluc-Silva, Exh. 2, establishes that prevailing market rates for the type of work performed here exceed the $125 EAJA rate cap. Accordingly, a cost-of-living rate adjustment should be applied to the fees of attorney Sylvia Duluc-Silva for work performed on the case.[2]

When making such an adjustment, there are two computational issues for courts to consider: (1) which cost-of-living index to use; and (2) what period of time to use to compare to the base period (i.e., March 1996, when 28 U.S.C. § 2412(d) was amended and the statutory ceiling was set at $125 per hour). As to the first issue, "[m]ost courts, including the Eleventh Circuit have approved the use of the Consumer Price Index for all Urban Consumers [("CPIU")] as the appropriate index for EAJA cost of living adjustments." *United States v. Adkinson*, 256 F. Supp. 2d 1297, 1312 (N.D. Fla. 2003). As to the second factor, there are essentially two time periods courts use to compare to the base period when calculating cost-of-living adjustments under EAJA: (1) the period when legal services were performed for the petitioner; or (2) a "current" date, such as the date the petitioner became a prevailing party, or the date when fees are awarded. Most courts have held that the period when services were performed is the correct period to use for calculating the cost-of-living adjustments, not the time when the award is made. *See Masonry Masters, Inc. v.*

[2] Prevailing market rates for the work performed exceed $300 per hour. *See* Exhibits 2-4. Mr. Trejo-Bautista is only seeking a cost of living adjustment to the statutory fee.

Nelson, 105 F.3d 708, 709-13 (D.C. Cir. 1997); *Marcus v. Shalala*, 17 F.3d 1033, 1038-40 (7th Cir. 1994); *Perales v. Casillas*, 950 F.2d 1066, 1074-77 (5th Cir. 1992); *Chiu v. United States*, 948 F.2d 711, 718-22 (Fed. Cir. 1991); *but see Garcia v. Schweiker*, 829 F.2d 396, 402 (3d Cir. 1987) (holding that the date on which the plaintiff became the prevailing party should be used).

Here, Mr. Trejo-Bautista's Habeas Petition was filed on January 22, 2026. Counsel for Mr. Trejo-Bautista worked on the matter from January 21 until February 17, with additional time spent drafting the instant motion until April 3. *See* Exh. 3 – Billing Statements. The CPI-U from the Bureau of Labor Statistics for March of 1996 is 155.7. *See* Exh. 4 – Consumer Price Index for All Urban Consumers (1970-2017) (available at https://www.bls.gov/cpi/tables/historical-cpi-u-201710.pdf). This metric, along with the most recently published CPI-U from the Bureau of Labor Statistics ("BLS") for January 2026, was the basis for Counsels' computations. The CPI-U for January 2026 is 325.252. *See* Exh. 5 – Consumer Price Index for All Urban Consumers (January 2026) (available at https://www.bls.gov/news.release/pdf/cpi.pdf). Assuming CPI-U for the month of January is used for all worked completed across all months (for ease of calculation and to obtain an overall lower-bound estimate), the cost-of-living adjusted hourly rate for attorney's fees is calculated as follows:

A = January 2026 CPI-U (325.252)
B = March 1996 CPI-U (155.7)
C = CPI-U adjusted rate
C = A/B x $125/hr = 325.252/155.7 x $125 = $261.12

c. Mr. Trejo-Bautista Requests Total Fees in the Amount of $7,577.48.

Included in this Motion are the hours expended by Attorney Sylvia Duluc-Silva that were reasonably and necessarily incurred in this litigation, plus filing fees reasonably and necessarily

incurred by Counsel. Attorney Sylvia Duluc-Silva has requested an hourly fee based on cost-of-living adjusted statutory rate. Counsel also requests reimbursement for filing fees, including her motion for *pro hac vice* admission to this Court, for a total of $230. Mr. Trejo-Bautista's total claim for attorneys' fees and costs under EAJA is as follows:

Sylvia Duluc-Silva
Fees (29 hours x $261.12/hour) = $7,572.48

Filing Fee – Petition for Writ of Habeas Corpus
Fee = $5

TOTAL ATTORNEY FEES AND COSTS
$7,577.48

CONCLUSION

WHEREFORE, Mr. Trejo-Bautista respectfully requests this Honorable Court to grant his Motion for Attorneys' Fees against the United States pursuant to the EAJA for **the total amount of $7,577.48**

Respectfully submitted on this 3rd day of April 2026.

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