IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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| WILMER REYNALDO XOL TZI, | : | |
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| Petitioner, | : | |
| | : | |
| v. | : | Civil Action No. 26-0414 |
| | : | |
| J.L. JAMISON, *et al.*, | : | |
| | : | |
| Respondents. | : | |

**RESPONSE IN OPPOSITION TO MOTION FOR EAJA FEES**

Attorneys' fees are not available to Petitioner under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), because the government's position is "substantially justified" under EAJA.[1] Although district courts in this district and elsewhere have largely disagreed with the government's position, the Fifth and

[1] The United States maintains its position that EAJA fees are not available in the habeas context because habeas is not a civil proceeding under the provision. Federal courts of appeal that have directly addressed the issue are split. The Second, Third, Ninth, and Tenth Circuits have held that habeas challenges to immigration detention are "civil actions" under the EAJA and found sovereign immunity waived. *See Michelin v. Warden Moshannon Valley Corr. Ctr.*, 169 F.4th 418, 431-32 (3d Cir. 2026); *Daley v. Ceja*, 158 F.4th 1152, 1159, 1162 (10th Cir. 2025); *Vacchio v. Ashcroft*, 404 F.3d 663, 667 (2d Cir. 2005); *In re Hill*, 775 F.2d 1037, 1040-41 (9th Cir. 1985). However, the Fourth and Fifth Circuits have held that habeas proceedings are "hybrid" actions, and therefore the EAJA does not unambiguously encompass them and does not expressly waive sovereign immunity. *See Barco v. Witte*, 65 F.4th 782,785 (5th Cir. 2023); *Obando-Segura v. Garland*, 999 F.3d 190, 193 (4th Cir. 2021).

There is currently a *certiorari* petition pending with the Supreme Court of the United States that may resolve the circuit split. The government files this response in accordance with binding Third Circuit precedent, reversing the Department of Justice's position that sovereign immunity is not waived in EAJA fee cases.

Eighth Circuit Courts of Appeals, in recent precedential opinions, adopted the government's interpretation of the core statutory question in this case—whether an applicant for admission present in the United States is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). Several district courts elsewhere have similarly agreed with the government's position. Thus, although the government has advanced a minority interpretation of 8 U.S.C. § 1225(b)(2)(A), the position is nonetheless "substantially justified."

Considering these authorities, and in concurrence with Judge Stickman's opinion in *Martinez-Briceno v. Warden of Moshannon Valley Processing Center*, Civ. No. 26-0232, 2026 WL 872494, at *1-2 (W.D. Pa. Mar. 30, 2026), Judge Hodge of this district found the government's position to be "substantially justified" in two recent decisions. *See Vincente v. Jamison*, Civ. No. 26-2045, 2026 WL 947822, at *9 n.1 (E.D. Pa. Apr. 7, 2026); Order, *Meireles de Oliveira v. Jamison*, Civ. No. 26-1246 (E.D. Pa. Apr. 7, 2026), at ECF No. 15. Two additional judges from our district have denied EAJA petitions on the same basis. *See Jacinto Salas v. Jamison*, Civ. No. 26-0382, 2026 WL 1382583 (E.D. Pa. May 15, 2026) (Kenney, J.); Order, *Severino-Acosta*, Civ. No. 25-7403 (E.D. Pa. May 19, 2026), at ECF No. 15 (Diamond, J.).

Moreover, in cases where a fee award is appropriate, such an award is limited to fees "incurred" and is capped at $125 per hour. 28 U.S.C. § 2412(d). Generally, the government does not object to an enhancement of the hourly rate based on increases in the cost of living. However, in the event that this Court

awards EAJA fees in this case, for the reasons specified herein, the fees Petitioner seeks are unsupported and excessive.

Respondents therefore respectfully ask that this Court determine that attorneys' fees under EAJA are not available. Alternatively, if this Court determines that EAJA fees are appropriate in this case, respondents respectfully request that the Court limit its award of fees.

## I. Relevant Factual and Procedural History

Petitioner Xol Tzi, a citizen of Guatemala, entered the United States on August 10, 2022. (ECF No. 8, ¶ 1). Immigration officials issued Petitioner a Notice to Appear, charging him as removable from the United States pursuant to 8 U.S.C. § 1182(a)(6)(A)(i). (*Id*. at ¶¶ 1, 3). He was then arrested on January 18, 2026 (*id*. at ¶ 4) and, on January 22, filed a habeas petition pursuant to 28 U.S.C. § 2241 (*id*. at ¶ 5).

On January 28, the Court granted the Petition for Writ of Habeas Corpus and ordered Petitioner released. (ECF No. 6). Petitioner filed his motion for attorneys' fees under EAJA on April 28 (ECF No. 8) and the government now responds.

## II. Legal Standard

EAJA is a limited waiver of the United States' sovereign immunity and therefore "must be strictly construed in favor of the United States." *Ardestani v. I.N.S.*, 502 U.S. 129, 137 (1991). Under EAJA, a court may award fees and expenses to a prevailing party against the United States 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). "Thus, 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'; (3) that no 'special circumstances make an award unjust'; and (4) pursuant to 28 U.S.C. § 2412(d)(1)(B), that any fee application be submitted to the court within 30 days of final judgment in the action and be supported by an itemized statement." *Comm'r, I.N.S., et al. v. Jean*, 496 U.S. 154, 158 (1990). EAJA only authorizes the payment of "reasonable" attorneys' fees and expenses. 28 U.S.C. § 2412(d)(2)(A).

Here, the government challenges Petitioner's eligibility for fees under EAJA on the ground that the government's position is "substantially justified." As the Third Circuit recently explained in an immigration detention case, the government's position is substantially justified if its conduct was "justified to a degree that could satisfy a reasonable person." *Johnson v. Gonzales*, 416 F.3d 205, 2010 (3d Cir. 2005).

The Court explained the standard as follows:

> The Government bears the burden of proving its position was justified. *Hanover Potato Prods., Inc. v. Shalala*, 989 F.2d 123, 128 (3d Cir. 1993). "To satisfy this burden and defeat a prevailing party's application for fees, the government must . . . demonstrat[e] '(1) a reasonable basis in truth for the facts alleged; (2) a reasonable basis in law for the theory it propounded; and (3) a reasonable connection between the facts alleged and the legal theory advanced.'" *Cruz* [*v. Comm'r of Soc. Sec.*, 630 F.3d 321, 324 (3d Cir. 2010)] (quoting *Morgan v. Perry*, 142 F.3d 670, 684 (3d Cir. 1998)).

*Michelin*, 169 F.4th at 433. Significantly, the Court noted: "[w]e do not assume the position of the Government was not substantially justified simply because it lost." *Id*. (citing *William v. Astrue*, 600 F.3d 299, 302 (3d Cir. 2009)).

## III. Argument

### A. Respondents' position was substantially justified.

#### i. The government's underlying conduct was substantially justified because a binding decision of the BIA foreclosed a bond hearing.

As an initial matter, Petitioner's detention without a bond hearing was "substantially justified." Indeed, a recent precedential decision of the Board of Immigration Appeals ("BIA"), *Matter of Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), precluded the agency from offering Petitioner a bond hearing. *Hurtado* held that an immigration judge has no jurisdiction to conduct a bond hearing for an alien present in the United States, but never admitted, because 8 U.S.C. § 1225 requires mandatory detention for the duration of removal proceedings. *Id*.

The *Hurtado* decision is binding on all immigration judges in the United States. 8 C.F.R. § 1003.1(g)(1) ("[D]ecisions of the [BIA] and decisions of the Attorney General are binding on all officers and employees of DHS or immigration judges in the administration of the immigration laws of the United States"). In other words, the *Hurtado* decision leaves the agency no choice but to deny a bond hearing (if one is sought) under the circumstances alleged by Petitioner.

Accordingly, the Court should determine that the underlying conduct of detaining Petitioner without bond was "substantially justified" because the agency

"did no more than follow binding administrative decisions." *Gjergj G. v. Edwards*, Civ. No. 19-5059, 2019 WL 3245104, at *2 (D. N.J. July 17, 2019) (noting the agency likely could not have acted otherwise where the immigration courts had effectively ruled that neither the BIA nor the immigration judges had authority to hold a bond hearing in the context at issue).

**ii. The government's litigation position was "substantially justified," as evidenced by other federal courts that have adopted it.**

Because Respondents' position was substantially justified, Petitioner is not entitled to attorneys' fees. The core statutory question at the heart of this dispute relates to the correct interpretation of § 1225(b)(2)(A):

> In the cases of an alien who is an **applicant for admission**, if the examining immigration officer determines that an **alien seeking admission** is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

8 U.S.C. § 1225(b)(2)(A) (emphasis added).

Here, Petitioner is indisputably an "applicant for admission." *See* 8 U.S.C. § 1225(a)(1). In granting habeas relief, this Court concluded that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and is instead subject to detention, if at all, pursuant to the discretionary provisions of 8 U.S.C. § 1226(a). (ECF No. 6). In so ruling, the Court adopted the reasoning of numerous prior cases presenting similar issues. (*Id*. at n. 1).

By contrast, the government contends that "applicants for admission" are necessarily "seeking admission" until they have been admitted or until their

removal proceedings are complete. The government recognizes its position has been rejected by most district courts to have considered it, and the Second, Sixth, and Eleventh Circuits have also rejected the government's argument. *See Barbosa da Cunha v. Freden*, 175 F.4th 61, 78 (2d Cir. 2026); *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, 175 F.4th 1258, 1262 (11th Cir. 2026) (concluding that the text and statutory structure of the INA, in addition to the congressional purpose in passing the IIRIRA, "yield the conclusion that no-bond detention generally applies to arriving aliens seeking lawful entry to the country, and not to aliens who are simply present here"); *Lopez-Campos v. Raycraft*, 175 F.4th 713, 732 (6th Cir. 2026) (finding that mandatory detention without a bond hearing violated both the INA and Due Process).[2]

Critical to the EAJA analysis, however, is that two circuit courts—the Fifth and the Eighth Circuit Courts of Appeals—have agreed with the government in precedential decisions. *See Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 502 (5th Cir. 2026) ("The everyday meaning of the statute's terms confirms that being an 'applicant for admission' is not a condition independent from 'seeking admission'"); *Avila v. Bondi*, 170 F.4th 1128, 1134 (8th Cir. 2026) (concluding that "the structure

[2] A three-judge panel of the Seventh Circuit also recently considered, but ultimately split, on the government's position that noncitizens unlawfully living in the country's interior are subject to mandatory detention under § 1225(b)(2). *Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 175 F.4th 828, 861 (7th Cir. 2026) (Prior, J., concurring) (affirming the district court's order directing release of detained noncitizen class members, based upon the prior administration's interpretation of § 1225(b)(2) as of the time the government executed the underlying consent decree).

of § 1225(b)(2)(A) does not indicate that 'seeking admission' is a separate requirement for detention under the statute").[3]

Further, although most district courts around the country have disagreed, others have ruled in the government's favor, holding that Section 1225(b) permits the mandatory detention of aliens who had not been previously admitted when subsequently found within the country. *See Vargas Lopez v. Trump*, Civ. No. 25-0526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, Civ. No. 25-2325, 2025 WL 2730228, at *5 (S.D. Cal. Sept. 24, 2025); *see also C.B. v. Oddo*, Civ. No. 25-0263, 2025 WL 2977870, at *2 (W.D. Pa. Oct. 22, 2025) (holding petitioner could be held without bond pursuant to § 1225(b), but awarding habeas relief due to the petitioner's prolonged detention); *Chen v. Almodovar, et al.*, Civ. No. 25-9670, 2026 WL 100761 (S.D.N.Y. Jan. 14, 2026); *Singh v. Noem, et al.*, Civ. No. 25-0157, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Gomez Hernandez v. Lyons, et al.*, Civ. No. 25-0216, 2026 WL 31775 (N.D. Tx. Jan. 6, 2026); *Montoya v. Holt, et al.*, Civ. No. 25-1231, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Altamirano Ramos v. Lyons, et al.*, ---F. Supp. 3d ---, 2025 WL 3199872 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem, et al.*, Civ. No. 25-0168, 2025 WL 3131942 (E.D. Mo. Nov. 10, 2025); *Azizzadeh v. Rhoney*, Civ. No. 25-1288, 2026 WL 44324, at *1 (W.D.N.Y. Jan. 6, 2026); *Chen v. Almodovar*, Civ. No. 25-8350, 2025 WL 3484855, at *4-8 (S.D.N.Y.

[3] The Third Circuit heard argument on May 11, 2026, related to both the statutory and constitutional due process claims. *See Lopes de Andrade v. Dir. Philadelphia Field Office Immigration and Customs Enforcement, et al.*, No. 26-1454 (3d Cir.), and *Buele Morocho v. Warden, Philadelphia FDC, et al.*, No. 26-1150 (3d Cir.).

Dec. 4, 2025); *Valencia v. Chestnut*, ---F. Supp. 3d---, 2025 WL 3205133, at *2-4 (E.D. Cal. Nov. 18, 2025); *Cabanas v. Bondi*, Civ. No. 25-4830, 2025 WL 3171331, at *1, *3-6 (S.D. Tex. Nov. 13, 2025); *Altamirano Ramos v. Lyons*, ---F. Supp. 3d ---, 2025 WL 3199872, at *4-9 (C.D. Cal. Nov. 12, 2025); *Mejia Olalde v. Noem*, Civ. No. 25-0168, 2025 WL 3131942, at *1-5 (E.D. Mo. Nov. 10, 2025); *Silva Oliveira v. Patterson*, Civ. No. 25-1463, 2025 WL 3095792, at *4-7 (W.D. La. Nov. 4, 2025); *Cirrus Rojas v. Olson*, Civ. No. 25-1437, 2025 WL 3033967, at *5, *8-9 (E.D. Wis. Oct. 30, 2025).

That multiple federal courts—including two in this circuit—and the BIA, an administrative appellate body, have agreed with the government's position, suggests "objective indicia" of substantial justification. *Gjergj G.*, 2019 WL 3245104, at *2 (citing *Pierce v. Underwood*, 487 U.S. 552, 568-69 (1988), and *Bryan v. Comm'r of Soc. Sec.*, 478 F. App'x 747, 750 (3d Cir. 2012)). Moreover, two federal appellate courts have agreed with the government's position, and the government's position flows from the BIA's precedential decision interpreting a statute with which it is deeply familiar; thus, the government's litigation position was both reasonable and substantially justified. *Id.* at *2 ("Although this Court and at least one other in this district have rejected this same contention, that is not sufficient to render the Government's position unjustified, and this Court finds that the decisions in cases [ruling in the Government's favor] provide indica that a reasonable person could find the Government's position justified in substance given the state of the law, including administrative decisions and appliable regulations, and the facts of this

matter"); *Threadgill v. Armstrong World Indus., Inc.*, 928 F.2d 1366, 1371 n.7 (3d Cir. 1991) ("it is clear that there is no such thing as 'the law of the district,'" and noting that district court judges are free to disagree with prior district court decisions of other judges even where presented with essentially identical facts). Indeed, multiple judges in this district have recently found the government's position to be "substantially justified." *See Vincente*, 2026 WL 947822, at *9 n. 1; Order, *Meireles de Oliveira*, Civ. No. 26-1246, ECF No. 15 at 1; *Jacinto Salas*, 2026 WL 1382583, at *2; Order, *Severino-Acosta*, Civ. No. 25-7403, ECF No. 15 at 1.

Accordingly, this Court should find that the statutory interpretation advanced by the government in this case, and adopted by the Fifth and Eighth Circuit Courts of Appeals and various district courts across the country, satisfies the "reasonable person" standard and was "substantially justified."

**B. The EAJA fees sought are excessive**.

**i. A party may only recover the amount of attorneys' fees which were incurred.**

The Court should deny Petitioner's request for attorney's fees because he has failed to offer any evidence establishing the amount of fees actually incurred. Even if the Court were to determine that the United States' position was not substantially justified, it may only award "fees and other expenses . . . incurred by [the prevailing] party," 28 U.S.C. § 2412(d)(1)(A). EAJA defines "fees and other expenses" to include "reasonable" attorneys' fees and provides that "[t]he amount of fees awarded under this subsection shall be based upon prevailing market rates for the kind and quality of the services furnished." 28 U.S.C. § 2412(d)(2)(A). EAJA fees

are calculated using the lodestar method, multiplying each attorney's reasonable hours expended by the reasonable hourly rate. *See Conservation Force v. Salazar*, 916 F. Supp. 2d 15, 23 (D.D.C. 2013) (citing *Role Models Am., Inc. v. Brownlee*, 353 F.3d 962, 968 (D.C. Cir. 2004)). A party seeking fees bears the burden of submitting evidence supporting the claimed fees; EAJA specifically requires "an itemized statement . . . stating the actual time expended and the rate at which fees and other expenses were computed." 28 U.S.C. § 2412(d)(1)(B).

Petitioner must therefore provide evidence allowing the Court to determine both the number of hours expended, as well as the prevailing market rate in the relevant community where the work was performed. *Donnell v. United States*, 682 F.2d 240, 251 (D.C. Cir. 1982) ("Normally, the relevant community is the one in which the district court sits."). "The starting point in ascertaining a reasonable hourly rate is the attorney's usual billing rate, but this is not dispositive." *Mantz v. Steven Singer Jewelers*, 100 F. App'x 78, 81 (3d Cir. 2004) (citing *Loughner v. Univ. of Pittsburgh,* 260 F.3d 173, 177 (3d Cir. 2001)).

While Petitioner has offered an affidavit attesting to the number of hours counsel expended on this matter, he has provided no evidence showing counsel's rate or substantiating the prevailing market rate the Court would need to evaluate whether the billed rate was reasonable. *See* ECF No. 8-1, at Ex. D (Campos declaration and attachments). Because Petitioner presents no evidence attesting to the rate his counsel actually charged, or the rates typically charged in the Eastern

District of Pennsylvania for the kind and quality of the services furnished, the Court is left without any means of evaluating what the fee award should be.[4]

**ii. Petitioner requests fees in excess of the statutory cap.**

Petitioner has failed to meet his burden of establishing the attorneys' fees incurred. If this Court nevertheless determines that awarding fees is appropriate, those fees should not exceed the EAJA statutory cap. The statute provides for a fee cap 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 proceeds involved, justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A)(ii).[5] Petitioner's counsel argues he is entitled to rates in excess of the statutory cap due to his 18 years of experience as an immigration lawyer and his foreign language fluency. (*See* ECF No. 8-1, Ex. D (Campos Decl.) at ¶¶ 4, 9-10). But counsel does not

[4] Petitioner's failure to offer evidence of the fees actually incurred also presents the possibility of an impermissible double recovery. Attorneys should not be permitted to collect double recovery of fees under EAJA. *See Gisbrecht v. Barnhart*, 535 U.S. 789, 796 (2002) ("Congress harmonized fees payable by the Government under EAJA with fees payable under § 406(b) out of the claimant's past-due Social Security benefits in this manner: Fee awards must be made under both prescriptions, but the claimant's attorney must 'refund to the claimant the amount of the smaller fee'"). While a party may recover fees under EAJA in excess of what was actually paid, to the extent that counsel has already received compensation, he would need to reimburse his client for any EAJA fee award received.

[5] Generally, the government does not object to an enhancement of the hourly rate based on increases in the cost of living. The Ninth Circuit Court of Appeals publishes a guide on its website providing inflation-adjusted EAJA rates for recent years. *See* https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/. The most recent rate published, for work performed in 2025, is $258.46.

claim that the availability of qualified attorneys to handle these proceedings is limited.

The Third Circuit Court of Appeals has held that even in a case where an experienced immigration attorney handled a case involving issues beyond straight-forward application of established standards, awarding EAJA fees beyond the statutory cap was not justified. *Patel v. AG of the United States*, 426 F. App'x 116, 119 (3d Cir. 2011). The *Patel* Court found the attorney seeking to pierce the statutory EAJA rate did not present evidence of a limited number of qualified attorneys who would take on the case at the statutory rate. And the Court further noted there was no shortage of qualified immigration attorneys in Pennsylvania. *Id.*; *see also Johnson v. Gonzales*, 416 F.3d 205, 213 (3d Cir. 2005) (same).

Here, the government does not dispute counsel's years of experience or immigration law expertise. However, he has not adequately demonstrated a shortage of other qualified immigration attorneys in the relevant market. In fact, a great many immigration attorneys (with a wide range of foreign language skills) have filed habeas petitions on behalf of clients in this district within the last nine months, demonstrating the wealth of experienced attorneys within the immigration bar. Therefore, should this Court deem an award of EAJA fees to be appropriate, the government respectfully requests that it not pierce the statutory rate.

### iii. The *Laffey* Matrix, used for Washington, D.C. area attorneys, is not applicable, because Petitioner's counsel is a local attorney.

If this Court grants Petitioner's motion for EAJA fees and allows him to exceed the statutory cap, it should use the Community Legal Services (CLS) rates, as opposed to the *Laffey* Matrix to determine the appropriate rate of compensation to the petitioner. Petitioner's counsel is a local practitioner with an office in Bethlehem, PA. He is not a Washington, D.C., area lawyer. The *Laffey* Matrix provides hourly rates based on years of litigation experience in the Washington, D.C., area. *Laffey v. Northwest Airlines, Inc.*, 572 F. Supp. 354, 371 (D.D.C. 1983). It does not apply here.

The Third Circuit Court of Appeals has approved of the use of the *Laffey* Matrix where the attorneys litigating a case in the District of New Jersey came from the Washington, D.C., area and the party using the D.C. attorneys was able to show local New Jersey attorneys with the relevant expertise were not able to handle the complex environmental litigation at issue. *Interfaith Cmty. Org. v. Honeywell Int'l, Inc.*, 426 F.3d 694, 707-10 (3d Cir. 2005) (explaining the history of the *Laffey* Matrix used to calculate Washington, D.C., area attorney fees and allowing the use of the *Laffey* Matrix for D.C. area attorneys litigating in the district court for the District of New Jersey where the fee requesting party showed unavailability of qualified New Jersey attorneys). The Court explained, "under normal circumstances, a prevailing party's attorneys should be compensated based on market rates in the vicinage of the litigation. However, if a prevailing party can

show that it required the expertise of counsel from another vicinage, or that local counsel was unwilling to take on the litigation, then it will be entitled to compensation based on prevailing rates in the community in which its attorneys practice." *Id.* at 699.

Judges in the Eastern District of Pennsylvania have declined to use the *Laffey* Matrix based on its inapplicability to rates in this District and instead have found Philadelphia CLS rates to be more applicable. *See*, *e.g.*, *Customs Fraud Investigations, LLC v. Victaulic Co.*, Civ. No. 13-2983, 2019 WL 4280494, at *27-30 (E.D. Pa. Sept. 9, 2019) (declining to use the *Laffey* Matrix to determine reasonableness of fees in this District, and instead using the CLS rates); *Zavodnick v. Gordon & Weisberg, P.C.*, Civ. No. 10-7125, 2012 WL 2036493, at *12-15 (E.D. Pa. June 6, 2012) (agreeing that the *Laffey* Matrix is not probative of rates in this market).

Petitioner argues the Fitzpatrick Matrix could be applied as an alternative to the *Laffey* Matrix. The Fitzpatrick Matrix was introduced in 2021 for complex litigation occurring in Washington, D.C. *See Sierra Club v. U.S. EPA*, Civ. No. 23-1744, 2025 WL 2097611, at *4 (D.D.C. July 25, 2025). A New Jersey district court recognized in 2024 that the Fitzpatrick matrix is not helpful in determining the prevailing rate for attorneys' fees in the Philadelphia/New Jersey legal market. *Rastelli Partners, LLC v. Baker*, Civ. Nos. 23-2967, 23-3126, 2024 WL 960485, at *8 (D. N.J. Mar. 6, 2024).

Petitioner's counsel is a local attorney who routinely handles immigration cases in this District. As such, if the Court declines to use the statutory rate, the CLS rate and not the *Laffey* or Fitzpatrick Matrix is the appropriate rate to determine his fees.

## IV. Conclusion

For the foregoing reasons, Respondents respectfully request that the Court determine that attorneys' fees under EAJA are not available in this matter.

Respectfully submitted,

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Dated: June 29, 2026

**CERTIFICATE OF SERVICE**

I hereby certify that, on this date, I served the foregoing Response in Opposition to Motion for EAJA Fees by filing said document *via* the Court's Case Management/Electronic Case Filing System, thereby making it available for viewing and download by all parties of record.

/s/ *Bryan C. Hughes*
BRYAN C. HUGHES
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Dated: June 29, 2026