U.S. Department of Justice

United States Attorney
Eastern District of New York

271 Cadman Plaza East
Brooklyn, New York 11201

April 10, 2026

By ECF
Honorable Nina R. Morrison
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Merlo Puerto v. Leeper, et al.*
Civil Action No. 26-cv-405 (Morrison, J.)

Dear Judge Morrison:

Respondents respectfully submit this supplemental letter in response to the Court's Order dated April 3, 2026, which directed Respondents to state by April 10, 2026 whether: (1) Petitioner's counsel consents to Respondents' request for an extension of time to respond to Petitioner's Equal Access to Justice Act, 28 U.S.C. § 2412(d)(1)(A) ("EAJA") fee application to April 15, 2026; (2) whether funding is presently available to process Petitioner's motion under the One Big Beautiful Bill Act ("OBBBA"), Pub. L. No. 119-21, 139 Stat. 72 (2025); and (3) notwithstanding the availability of funding under OBBBA, "why counsel is unable to respond to the fee application so that the Court may timely adjudicate the merits of the application." *See* Order, Apr. 3, 2026 Minute Entry.

Respondents note that prior to submitting the April 1, 2026 status report, Respondents sought and obtained consent from Petitioner's counsel for an extension of time to April 15, 2026. The undersigned neglected to include that information in the prior status report, and apologizes for any inconvenience that this omission caused the Court.

Regarding the availability of funding under OBBBA to process Petitioner's EAJA fee application, this Office has been informed by the U.S. Immigration and Customs Enforcement ("ICE") that, as of this week, it is possible to pay an EAJA award using OBBBA funds, provided that the underlying litigation is detention-related and that the award is ordered by the Court.

Respondents sought prior extensions of the deadline to respond to Petitioner's EAJA fee application because the guidance described above was not in place. Now that such guidance has issued, Respondents are prepared to submit their response to Petitioner's application by April 15, 2026.

Respectfully submitted,

JOSEPH NOCELLA, JR.
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