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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

10 ARTEM VASKANYAN,

11 Petitioner,

12 v.

13 JAMES JANECKA, Warden, Adelanto
14 ICE Processing Center, THOMAS
15 GILES, Los Angeles ICE Field Office
16 Director, TODD LYONS, Acting
17 Director of U.S. Immigration and
18 Customs Enforcement, KRISTI NOEM,
19 Secretary of the U.S. Department of
20 Homeland Security; PAMELA BONDI;
Attorney General of the United States,

21 Respondents.

22 No. 5:25-cv-01475-MRA-AS

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**RESPONDENTS' OPPOSITION TO
APPLICATION FOR EAJA FEES**

Honorable Monica Ramirez Almadani
United States District Judge

MEMORANDUM OF POINTS AND AUTHORITIES

I. Introduction

Petitioner Artem Vaskanyan (“Petitioner”) seeks \$16,067 in attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”) and this Court’s Order dated July 18, 2025. *See ECF 29.* Respondents oppose because their position was substantially justified.

II. Legal Standard

The EAJA provides for attorney's fees awards to the prevailing party other than the United States unless the "district 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). "Substantially justified" means justified to a degree that could satisfy a reasonable person and applies to both the underlying action at issue and the government's litigation position. *Paloulian v. Sullivan*, 919 F.2d 145 (9th Cir. 1990). The government must show that it had a reasonable basis for the facts alleged and that it had a reasonable basis in law for the theories it advanced. *Corbin v. Apfel*, 149 F.3d 1051, 1052 (9th Cir. 1998).

In addition, the court may also decline to award attorneys' fees if it finds that "special circumstances make an award unjust." 28 U.S.C. § 2412(d)(1)(A). The Ninth Circuit has held that special circumstances are present where the government makes an argument for "a novel but credible extension or interpretation of the law" (*Hoang Ha v. Schweiker*, 707 F.2d 1104, 1106 (9th Cir.1983)), where its action concerns an issue on which "reasonable minds could differ," or where it involves an "important and doubtful question." *Minor v. United States*, 797 F.2d 738, 739 (9th Cir.1986).

III. Respondents' Position was Substantially Justified

EAJA fees should not be awarded because Respondents' position was substantially justified. Establishing that the government's defense lacked substantial justification under the EAJA is very difficult. *See, e.g., Bay Area Peace Navy v. United*

1 *States*, 914 F.2d 1224, 1231 (9th Cir. 1990) (reversing EAJA award as an abuse of
2 discretion). The test is not whether the government was correct, but whether it was “for
3 the most part” justified in taking the position that it did. *See Meza-Vazquez v. Garland*,
4 883 F.3d 726, 729 (9th Cir. 2021). A position that “was not contrary to clearly
5 established law” is thus substantially justified. *Id.* Errors of interpretation regarding the
6 exact nature of the agency’s obligations do not establish a lack of substantial
7 justification, even if the argument ultimately proves unsuccessful. *See W. Watersheds*
8 *Project v. Ellis*, 697 F.3d 1133, 1136 (9th Cir. 2012).

9 Here, Petitioner’s detention was statutorily authorized under is 8 U.S.C. §
10 1231(a)(2) while Respondents made efforts to remove him pursuant to a final order of
11 removal. Upon Petitioner being transferred to ICE custody, on November 12, 2024,
12 Respondents took reasonable steps to remove Petitioner to Azerbaijan and Russia, and
13 then to Armenia. When it became apparent that travel documents for Petitioner would
14 not be issued by Armenia, Respondents promptly notified the Court of the same to
15 permit speedy adjudication of the Petition, even though their return was not due for over
16 a month. Thus, even though their efforts at removal were unsuccessful and Petitioner
17 was ordered released, Respondents’ position was substantially justified.

18 **IV. CONCLUSION**

19 For all the foregoing reasons, Respondents respectfully submit that Petitioner’s
20 Application for Fees should be denied.

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1 Dated: August 25, 2025

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14 **CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2**

15 The undersigned, counsel of record for the Defendants, certifies that the
16 memorandum of points and authorities contains 533 words, which complies with the
17 word limit of L.R. 11-6.1.

18 Respectfully submitted,

19 Dated: August 25, 2025

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