

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

Civil Action No. 25-cv-03120-NYW

JOSE MANUEL LOA CABALLERO,

Plaintiff-Petitioner,

v.

JUAN BALTAZAR, Warden, Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,

ROBERT GAUDIAN, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement, in his official capacity;

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity;

TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity;

PAMELA BONDI, Attorney General of the United States, in her official capacity;

Defendants-Respondents.

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

I. Introduction

Petitioner, Jose Manuel Loa Caballero (“Mr. Loa Caballero”) moves for an award of attorney’s fees pursuant to the Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412. Defendants-Respondents (“Defendants”) unlawfully jailed Mr. Loa Caballero under its erroneous interpretation of 8 U.S.C. §§ 1226, 1225(b)(2). This Court granted, in part, Mr. Loa Caballero’s Verified Petition for Writ of Habeas Corpus (ECF 1), “readily conclud[ing]” that Defendants incarcerated Mr. Loa Caballero under the wrong statute. *Loa Caballero v. Baltazar*, 25-cv-03120-NYW, 2025 WL 2977650, at *8 (D. Colo. Oct. 22, 2025).

Mr. Loa Caballero is a prevailing party entitled to attorney’s fees and expenses. Mr. Loa Caballero meets the EAJA net worth limitation. Defendants’ position was not substantially justified and there are no special circumstances that make an award unjust. 28 U.S.C. § 2412(d)(1)(A). Mr. Loa Caballero therefore moves the Court for an award of \$14,000. The parties have conferred and the Defendants oppose this motion.

II. Summary of Factual and Procedural History

Mr. Loa Caballero has resided in the United States for approximately 20 years. ECF 1, at ¶ 1. He grew up in Colorado Springs, Colorado where he graduated from Harrison High School and earned an associate degree in art from Pikes Peak Community College. *Id.* He is deeply involved in his community, is employed, and has only minor contact with the criminal legal system. *Id.* Immigration and Customs Enforcement (“ICE”) jailed Mr. Loa Caballero on September 17, 2025, and issued him a Notice to Appear (“NTA”), charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i). *Id.* at ¶ 2. ICE served Mr. Loa Caballero a Notice of Custody Determination stating that ICE was jailing him “[p]ursuant to the authority contained in section 236 of the Immigration and Nationality

Act.” ECF 6-2, at *6. ICE served Mr. Loa Caballero with a warrant for his arrest that same day, which noted ICE’s authority to jail Mr. Loa Caballero pursuant to § 1226(a). ECF 6-2, at *8. Despite issuing three separate documents confirming the statutory authority to jail Mr was pursuant to § 1226(a), Defendants inexplicably changed course and argued that Mr. Loa Caballero was subject to mandatory detention in § 1225(b)(2).

Mr. Loa Caballero filed his Verified Petition for Writ of Habeas Corpus (“Petition”) on October 3, 2025, asking for immediate release or a custody redetermination hearing under § 1226(a) within seven days. (ECF 1). On October 22, 2025, this Court granted, in part, the Petition. *Loa Caballero*, 2025 WL 2977650, at *9. The Court “readily conclude[d]” that Defendants’ position that he was subject to § 1225(b)(2) was “unlawful.” *Id.*, at *8. The court ordered that Defendants provide a § 1226(a) bond hearing within seven days at which ICE bears the burden to demonstrate that his custody was necessary. *Id.* at *9. The IJ subsequently ordered Mr. Loa Caballero released from custody on a bond of \$7,500, but ICE did not release him from custody for 96 additional hours. (ECF 20, 20-1).

III. Legal Standard for EAJA Applications

A court shall award fees and other expenses to the eligible prevailing party in an 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 would make an award unjust. 28 U.S.C. § 2412(d)(1)(A)–(B); *Al-Maleki v. Holder*, 558 F.3d 1200, 1204 (10th Cir. 2009). The prevailing party must have a net worth of less than two million dollars. 28 U.S.C. § 2412(d)(2)(B)(i). These fundamental EAJA principles apply equally in a habeas corpus action challenging immigration custody. *Daley v. Ceja, et al.*, 158 F.4th 1152, 1166 (10th Cir. 2025).

IV. Argument

a. The Fee Application is Timely.

An EAJA application for fees and other expenses must be filed “within thirty days of final judgement in the action.” 28 U.S.C. § 2412(d)(1)(B). The thirty-day EAJA clock did not begin to run until after the 60 time to appeal an effective final judgement expires. *Melkonyan v. Sullivan*, 501 U.S. 89, 96 (1991); Fed. R. App. P. 4(a)(1)(B). The Court entered its order granting, in part, Mr. Loa Caballero’s habeas petition on October 22, 2025, and terminated the case on December 2, 2025. ECF 22. This motion is timely.

b. Mr. Loa Caballero is an Eligible and Prevailing Party.

Mr. Loa Caballero is an eligible party under EAJA because he is a private individual whose net worth does not exceed \$2,000,000. See Exhibit 1; 28 U.S.C. § 2412(d)(2)(B)(i) (requiring net worth to “not exceed \$2,000,000 at the time the civil action was filed”).

Mr. Loa Caballero is also an eligible party because he is the prevailing party. A party is the “prevailing party” when his or her 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 party “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). Mr. Loa Caballero is the prevailing party because this Court found that Defendants decision to jail under § 1225(b)(2) was unlawful and granted the petition in part.

c. Defendants’ Pre-Litigation and Litigation Position was Not Substantially Justified.

As the prevailing party, Mr. Loa Caballero is entitled to fees because the government cannot show that its position “was substantially justified or that special

circumstances make an award unjust.” 28 U.S.C. § 2412(d)(1)(A). “The position of the United States is defined in the EAJA as the position taken by the United States in the civil action [and] the action or failure to act by the agency upon which the civil action is based” *Al-Maleki*, 558 F.3d at 1206–07 (quoting 8 U.S.C. § 2412(d)(2)(D)). The government’s prelitigation actions, including of relevant agencies, and its litigation position “are both relevant to the inquiry and must be reasonable in fact and law.” *Id.* at 1207 (citation omitted); *Role Models America, Inc., v. Brownlee*, 353 F.3d 962, 967 (DC. Cir. 2004).

Courts have found that it would be an “abuse of discretion” to find Defendants’ position substantially justified if it violates the Constitution, a statute, or its own regulations. *Meinhold v. U.S. Dep’t of Defense*, 123 F.3d 1275, 1278 (9th Cir. 1997). Where an agency violates its own regulations in adjudicating a case, the Court may find a per se lack of substantial justification. *Mendenhall v. National Transp. Safety Bd.*, 92 F.3d 871, 874-76 (9th Cir. 1996); see also *Role Models Am.*, 353 F.3d at 967 (D.C.). As well, a “string of losses can be indicative” of a position that is not substantially justified. *Pierce*, 487 U.S. at 569. Here, the Court should award Mr. Loa Caballero fees because the government’s pre-litigation and litigation positions were not substantially justified.

i. *Defendants’ Pre-Litigation Position was Not Substantially Justified.*

The government’s decision to jail Mr. Loa Caballero pursuant to § 1225(b)(2) bucked nearly thirty years of practice and was “inconsistent with the statute’s plain language . . . [and] inconsistent with the related implementing regulations.” *Loa Caballero*, 2025 WL 2977650, at *7. This is particularly here where Defendants’ pre-litigation “treatment of [Mr. Loa Caballero] appears to conflict with their assertion that he is detained pursuant to § 1225.” *Id.* at *8. Indeed, “the Government’s own detention paperwork

suggest[ed] that Mr. Loa Caballero is detained under § 1226.” *Id.* That paperwork included a notice of custody determination, a notice to appear, and a warrant that “supports the conclusion that Mr. Loa Caballero [was] detained under § 1226.” *Id.* Defendants provided no justification to ignore its own, multiple determinations that Mr. Loa Caballero was eligible for a bond hearing under § 1226(a). That position was not substantially justified.

ii. Defendants’ Litigation Position was Not Substantially Justified.

The government’s litigation position was equally unjustified. Every Judge in the District who has considered Defendants’ position has found it unlawful. *Ugarte Hernandez v. Baltazar, et al.*, 1:25-cv-04066-RBJ, *4, ECF 16 (D. Colo. Jan. 15, 2026). This District’s unanimity is perhaps unsurprising since Defendants’ position “has been rejected in more than 1,500 district court decisions.” *Chavez Amrenta v. Noem*, No. 26-cv-00236-PAB, 2026 WL 274634, at *2 (D. Colo. Feb. 3, 2026).

That is true here because an agency must “defend its actions based on the reasons *it gave when it acted* in the interest of promoting agency accountability, instilling confidence in agency decisions, and maintaining an orderly process of review.” *DHS v. Regents of the Univ. of Cal.*, 591 US. 1, 24 (2020) (emphasis added). Here, because ICE first “affirmatively decided to treat [Mr. Loa Caballero] as being detained under Section 1226(a)[,] it cannot now be heard to change its position to claim that he is detained under section 1225(b).” *Marrero Yera v. Baltazar, et al.*, 1:26-cv-00476-SCK-SBP, 2026 WL 472014, at *2 (D. Colo. Feb. 19, 2026) (quotation omitted). Defendants’ complete reversal of course to argue detention under § 1225(b)(2) is not substantially justified.

Indeed, as this Court and district courts across the country have observed, “[Defendants’] interpretation of § 1225 is contrary to the agency’s own implementing

regulations; it's published guidance; the decisions of immigration judges (until very recently); decades of practice; the Supreme Court's gloss on the statutory scheme; and the overall logic of our immigration system." *Loa Caballero*, 2025 WL 2977650, at *8 (quotation omitted). Under these circumstances, including the overwhelming number of cases decided against them, "[o]ne might assume that" Defendants would acknowledge that "enforcing executive policies premised on a contrary illegal interpretation is improper." *Maldonado Bautista v. Santacruz*, ---F.Supp.3d---, 2026 WL 468284, at *3 (C.D. Cal. Feb. 18, 2026). "Remarkably, that has not been the case." *Id.* Such a "string of losses" is not substantially justified. *Pierce*, 487 U.S. at 569. Perhaps equally remarkable was the government's decision to violate its own regulations requiring bond hearings. See ECF 1, at ¶¶ 20, 41–45; ECF 6, at **12–13. In fact, the government's response does not contest that Defendants violated their own regulations. See generally ECF 13. Such a position is not substantially justified. See *Mendenhall*, 92 F.3d at 874–76.

d. No Special Circumstances Exist Making an Award of EAJA Fees Unjust.

This case does not present "special circumstances" rendering a grant of an EAJA award "unjust." 28 U.S.C. § 2412(d)(1)(A). Special circumstances include the government advancing in good faith novel but credible extensions and interpretations of law. H.R. Rep. No. 1418 at 11, 86th Cong., 1980 U.S. C.C.A.N. 4984, 1990. This provision must be narrowly construed so as not to interfere with or defeat Congress' purpose in passing EAJA. *E.g.*, *Martin v. Heckler*, 773 F.2d 1145, 1150 (11th Cir. 1985). The burden of proving the special circumstances rests with the government. *Id.*

V. The Requested Fees are Reasonable Under the EAJA.

Mr. Loa Caballero seeks fees in the amount of \$8,949 for the litigation of his petition

for habeas corpus, and \$5,051 for the litigation to date on his EAJA motion. Mr. Loa Caballero believes that enhanced rates should be awarded for the time spent by attorneys Hans Meyer and Conor Gleason. 28 U.S.C. § 2412(d)(2)(A)(ii); *Pierce*, 487 U.S. at 563; *Nadarajah v. Holder*, 569 F.3d 906, 912 (9th Cir. 2009). Mr. Loa Caballero additionally seeks the EAJA statutory rate, with a cost-of-living adjustment, for time spent by attorney Daniel Herrera, and reasonable rates for work performed by law clerks and paralegals.

Attached are contemporaneous time records documenting the time undersigned Counsel's office has spent on the merits of the habeas petition and the EAJA fee request. Exh. 8, 9. Counsel's office has not billed certain administrative tasks and does not seek costs in the litigation in the exercise of billing judgment. *Id.*

a. Attorneys Hans Meyer and Conor Gleason are Entitled to Fees in Excess of the Adjusted Statutory Rate Because They Possess Special Expertise That was Needed for the Litigation.

"Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation. . . ." *Hensley v. Eckerhart*, 461 U.S. 424, 435 (1983). Here, Mr. Loa Caballero received relief in habeas corpus and the hours expended on the litigation are reasonable.

Mr. Loa Caballero is entitled to enhanced fees for attorneys Hans Meyer and Conor Gleason because this case required specialized expertise involving complex immigration litigation experience. The EAJA expressly authorizes fees in excess of the statutory rate of \$125 per hour, adjusted for cost-of-living, when "a special factor, such as the limited availability of qualified attorneys for the proceedings involved, justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A)(ii); *Pierce*, 487 U.S. at 563, 572 (stating higher fees are appropriate when "attorneys having some distinctive knowledge or specialized skill [were]

needful for the litigation in question. . . . Examples . . . would be an identifiable practice specialty such as patent law, or knowledge of foreign law or language”). The “limited availability of counsel exception” is appropriate where “specialized legal services cannot be obtained in the market” for the EAJA statutory rate. *Vibra-Tech Engineers, Inc. v. U.S.*, 787 F.2d 1416, 1420 (10th Cir. 1986).

The field of immigration law is considered one of the most difficult and complex areas of law. See *Castro-O’Ryan v. U.S. Dept. of Immigration and Naturalization*, 847 F.2d 1307, 1312 (9th Cir. 1987) (characterizing the immigration laws as “second only to the Internal Revenue Code in complexity.”). Circuit courts have recognized that immigration law itself is a narrow legal specialty which may be considered a special factor to award fees in excess of the EAJA statutory cap. See, e.g., *Jean v. Nelson*, 863 F.2d 759, 774, n.12 (11th Cir. 1988); *Rueda-Menicucci v. INS*, 132 F.3d 493, 496 (9th Cir. 1997) (“a specialty in immigration law could be a special factor warranting an enhancement of the statutory rate”). This Court has similarly recognized that “knowledgeable attorneys are limited and that immigration issues are often complex and novel.” *Barber v. Weber*, 2005 WL 1846985, at *2 (D. Colo. Aug. 1, 2005).

As explained by practitioners in the field of immigration law, qualified counsel was not available in this case at the statutory rate provided under EAJA, even if adjusted for inflation. Immigration attorney Jeff Joseph explains that based on nearly three decades of immigration law practice in Colorado, “it is my opinion that no such litigators would be available at the EAJA statutory rate even when adjusted for inflation.” Exh. 4, Jeff Joseph Declaration ¶ 13 (“Joseph Declaration”). See also Exh. 5, Jessica Dawgert Declaration ¶ 10 (“Dawgert Declaration”) (“It is my professional opinion that attorneys with comparable

qualifications to Hans Meyer and Conor Gleason are not reasonably available to handle this type of litigation at or near the EAJA statutory rate, even when adjusted for inflation.”); Exh. 6, Aaron Hall Declaration ¶ 14 (“Hall Declaration”); Exhibit 7, Mark Barr Declaration ¶ 14 (“Barr Declaration”).

Rather, this litigation required the specialized experience and knowledge that Mr. Meyer and Mr. Gleason have regarding the interplay of immigration law, immigration detention litigation, and federal court litigation in habeas. As Mr. Joseph explains, “I can definitively say that out of the more than 400 current AILA members located in Colorado, less than ten of them have the expertise and specialized knowledge necessary to litigate these types of complex habeas corpus cases . . . Hans Meyer and Conor Gleason are two of these highly specialized litigators.” Joseph Declaration ¶ 13. He further explains that they were “also at the forefront of this litigation early on to challenge this untested detention theory in the Tenth Circuit.” Joseph Declaration ¶ 14.

Ms. Dawgert notes that “Mr. Meyer and Mr. Gleason are among a small group of attorneys nationwide—and an even smaller group in Colorado—who have a specialized expertise in the issues necessary to bring challenges to DHS’s novel policies over the last year.” Dawgert Declaration ¶ 10. She explains that “highly specialized litigators who have the experience and knowledge to effectively practice this niche area of the law and have been at the forefront of this litigation to challenge these detention practices.” Dawgert Declaration ¶ 9. Mr. Hall also explains, “Hans Meyer and Conor Gleason are two of the few seasoned litigators with the skills to successfully litigate these types of challenges to new and untested theories of mandatory immigration detention” Hall Declaration ¶ 13.

Mr. Meyer has practiced law for over 19 years. Exh. 2, Affidavit of Hans Meyer

("Meyer Affidavit"). He has experience challenging unlawful immigration detention and agency action in federal habeas corpus litigation and petitions for review. This includes challenges to the scope of mandatory detention under 8 U.S.C. § 1226(c) in *Baquera v. Longshore*, 948 F. Supp. 2d 1258, 1259 (D. Colo. 2013) and *Andujo v. Longshore*, 14-cv-01532-REB (D. Colo. June 26, 2014). Meyer Affidavit ¶¶ 6. He has also litigated several cases before the Tenth Circuit Court of Appeals. *Johnson v. Barr*, 967 F.3d 1103 (10th Cir. 2020), (successfully arguing that the Colorado controlled substance schedule is not a categorical match to the federal controlled substance schedule and does not trigger the grounds of removal or mandatory immigration detention); *Aguayo v. Garland* 78 F.4th 1210 (10th Cir. 2023) (establishing the availability of termination of removal proceedings as a remedy for ICE officer violations of agency regulation). Meyer Affidavit ¶¶ 7.

Mr. Gleason is also a litigator with 12 years of experience in challenging unlawful immigration detention in federal habeas corpus litigation. Exh. 3, Affidavit of Conor Gleason ("Gleason Affidavit"). His experience includes novel litigation regarding the burdens in custody hearings, *L.G. v. Choate*, 744 F.Supp.3d 1172 (D. Colo. 2024); *Darko v. Sessions*, 342 F.Supp.3d 429 (S.D.N.Y. 2018), issues involving prolonged immigration detention, *Sheikh v. Choate*, No. 22-cv-01627-RMR (D. Colo. Jul. 27, 2022), and EAJA fees for habeas litigation for noncitizens, *Arias v. Choate*, 1:22-cv-02238-CNS, 2023 WL 4488890 (D. Colo. Jul. 12, 2023). Gleason Affidavit ¶¶ 3.

Both Mr. Meyer and Mr. Gleason were appointed by the Honorable Judge Rodriguez as class counsel together with the ACLU of Colorado for the conditionally certified class action lawsuit in *Mendoza Guitierrez v. Baltasar et al.*, 1:25-cv-02720-RMR, ECF 47 (D. Colo. Nov. 21, 2025) that challenged the same unlawful detention practices

at issue in this case.¹ Meyer Affidavit ¶¶ 9; Gleason Affidavit ¶¶ 4. They also filed one of the first challenges to the Respondents' detention practices. *Ramirez Ovando v. Baltasar*, 1:25-cv-02597-PAB, ECF 7 (D. Colo. Aug. 27, 2025) (dismissed as moot after Petitioner was released from custody). Meyer Affidavit ¶¶ 9; Gleason Affidavit ¶¶ 4.

Mr. Meyer and Mr. Gleason continue to litigate new and complex habeas corpus cases in this district, including a successful habeas challenge ICE's unlawful use of the automatic stay provision at 8 C.F.R. § 1003.19(i)(2) to detain a noncitizen otherwise eligible for release on bond. *Balderas-Rivas v. Baltazar, et al.*, No. 26-cv-00442, 2026 WL 444732 (D. Colo. Filed Feb. 5, 2026). It also includes challenges to post-removal order immigration detention, see e.g. *Nguyen v. Baltazar, et al.*, 1:26-cv-00434-GPG (D. Colo. filed Feb. 4, 2026) (pending), and detention by ICE without due process protections. *Rodriguez Romero v. Baltazar, et al.*, 1:25-cv-03743-KAS (D. Colo. filed Nov. 19, 2025) (dismissal after ICE released petitioner). Meyer Affidavit ¶¶ 10-11; Gleason Affidavit ¶¶ 5.

b. Petitioner's Requested Fees Are Reasonable

Once it is established that the attorneys possess specialized skill and knowledge that was needed for the litigation, attorneys are to be compensated at prevailing market rates. *Pierce*, 487 U.S. at 571-72; 28 U.S.C. § 2412(d)(2)(A); *Nadarajah*, 569 F.3d at 916. "[T]he proper scope of comparison . . . extends to all attorneys in the relevant community engaged in equally complex Federal litigation, no matter the subject matter." *Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010).

¹ Mr. Meyer has also been appointed as class counsel by the Honorable R Brooke Jackson alongside the ACLU of Colorado and other co-counsel in the pending class action case of *Ramirez Ovando v. Noem*, ---F.3d---, 2025 WL 3293467 (D. Colo. Nov. 25, 2025), a case which challenges ICE's practice of conducting warrantless arrests without making a flight risk determination as required by federal law.

There are several tools used by court in determining a reasonable market rate in EAJA fee determinations. One is the “Laffey Matrix,” a table issued by the Department of Justice, which was initially adopted by the Court in *Laffey v. Northwest Airlines*, 572 F. Supp. 354, 371 (D.D.C. 1983), *aff’d in par, rev’d in part on other grounds*, 746 F.2d 4 (D.C. Cir. 1984). The Laffey Matrix rates for Mr. Meyer is \$1,019 per hour, and Mr. Gleason is \$948 per hour.²

However, to avoid dispute over this matter and to seek compromise, Petitioner is willing to use an alternate matrix known as the “Fitzpatrick Matrix” – sometimes referred to as the United States Attorney’s Office Fee Matrix (“USAO Fee Matrix”). Exh. 9.³ The Fitzpatrick Matrix was developed by the U.S. Attorney’s Office for the District of Columbia, and courts in the District of Columbia and the Ninth Circuit have approved its use. See *J.T. v. D.C.*, 652 F. Supp. 3d 11, 24–36 (D.D.C. 2023); *Koonwaiyou v. Blinken*, 724 F. Supp. 3d 1222, 1234 (W.D. Wash. 2024). The Fitzpatrick Matrix rate for attorney Hans Meyer with 19 years of experience is \$840 per hour, and for attorney Conor Gleason with 12 years of experience is \$754 per hour. In addition, Mr. Meyer and Mr. Gleason further agree to discount their request for fees by an additional 15% from the Fitzpatrick Matrix rates. As a result, Mr. Meyer seeks reimbursement at a rate of \$714 per hour and Mr. Gleason seeks reimbursement at a rate of \$640 per hour.

These rates fall below the rates approved by other courts in immigration-related EAJA litigation. See e.g. *Koonwaiyou v. Blinken*, 724 F. Supp. 3d 1222 (W.D. Wash. 2024) (approving attorney fees of \$850 per hour to experienced immigration counsel);

² Available at <https://www.laffeymatrix.com/see.html> (last checked on February 26, 2026).

³ Available at <https://www.justice.gov/usao-dc/media/1395096/dl?inline> (last checked on February 26, 2026).

Knudsen v. Hightower Holdings, LLC, No. 24-cv-0395-KKE, 2024 WL 3430994, at *3 (W.D. Wash. July 16, 2024) (finding reasonable hourly rates of \$850 for two attorneys with 32 and 20 years of experience; \$755 for attorney with 16 years of experience; and \$685 for attorney with nine years of experience).

The rates requested by counsel also correspond with reasonable market rates for such highly specialized knowledge and experience in Colorado. As Mr. Joseph explains, “My current hourly rate for litigation in immigration matters is \$800.00 per hour. The rates that our firm charges for litigation in federal court on complex immigration issues range from \$800-\$950 per hour for senior attorneys or partners with experience comparable to that of Mr. Meyer, and \$650 per hour for senior associates with experience levels comparable to Mr. Gleason.” Joseph Declaration ¶ 15. He further provides that, “In my opinion, this represents a reasonable market rate for the highly specialized expertise necessary in this niche area of immigration law.” *Id.* Ms. Dawgert’s billing rate for “complex immigration-related issues is \$750 per hour. The partners in my firm charge between \$600 and \$750 per hour for less complex cases.” Dawgert Declaration ¶ 11. She also concludes that “a range of \$700 to \$800 for federal litigation of a complicated immigration issue is a reasonable market rate for a highly specialized attorney with many years of expertise, as that is necessary for effective legal representation in this area of law.” *Id.*

Given the market rates outlined in the Fitzpatrick Matrix, Petitioner’s downward variance of 15% from those rates, the comparable reasonable market rates, the Court should conclude that the requested rates in this matter are reasonable.

c. Alternatively, the Court Should Grant Fees at the Adjusted Statutory Rate.

If the Court does not grant Mr. Loa Caballero’s request for enhanced fees, it should

grant fees at the statutory rate of \$125 per hour, adjusted for increases in cost of living. 28 U.S.C. § 2412(d)(2)(A)(ii); *Harris v. R.R. Ret. Bd.*, 990 F.2d 519, 521 (10th Cir. 1993); *T.E. v. Kijakazi*, 2023 WL 7089901, at *4 (D. Colo. Oct. 26, 2023). The Ninth Circuit has published a calculation of EAJA hourly rates for to account for cost-of-living adjustments to the statutory EAJA rate to be \$258 per hours in calendar year 2025.⁴ If the Court does not grant enhanced rates, it should award the adjusted EAJA rate of \$258 per hour.

VI. Petitioner is Entitled to EAJA Fees at the Adjusted Statutory Rate for Attorney Herrera and Reasonable Rates for Law Clerk and Paralegal Time.

Petitioner requests that attorney Daniel Herrera be awarded the cost-of-living adjustment statutory EAJA rate of \$258 per hour. 28 U.S.C. § 2412 (d)(2)(A). Petitioner also requests reasonable rates for the work performed by law clerks and paralegals. Under the Fitzpatrick Matrix, the reasonable market rate for paralegal work in 2025 is \$255 per hour.⁵ Here, Petitioner requests a rate of \$150 per hour.

VII. In the Exercise of Billing Judgment, Petitioner Waives Certain Billing Entries and Does Not Seek to Recover Costs in This Matter.

Petitioner does not seek to recover fees for certain administrative tasks and waives recovery of all costs associated this case, resulting in a 4-5% further reduction in fees.

VIII. Conclusion

For the reasons stated above, the Court should grant Mr. Loa Caballeros' request for attorney fees under EAJA for the habeas corpus litigation in the amount of \$8,949, and \$5,051 for the EAJA litigation to date, for a total fee amount of \$14,000.

⁴ Available at <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last checked on February 26, 2026)

⁵ Available at <https://www.justice.gov/usao-dc/media/1395096/dl?inline> (last checked on February 26, 2026).

Respectfully submitted this 2nd day of March, 2026.

s/ Hans Meyer

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CERTIFICATE OF CONFERRAL

I certify that consistent with D. Colo. Local Rule 7.1 that before filing this motion, on February 25 and 27, 2026, I conferred with counsel for Defendants-Respondents, Winnie Wu, Assistant United States Attorney, U.S. Attorney's Office for the District of Colorado, regarding the relief requested herein. Defendants oppose this motion.

/s/ Hans Meyer

Hans Meyer

AI CERTIFICATION

Pursuant to the Court's Standing Order on Generative Artificial Intelligence ("AI") in court filings, counsel certifies that AI was not used to draft this filing or any exhibits.

/s/ Hans Meyer

Hans Meyer

CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notifications to all counsel of record.

/s/ Hans Meyer

Hans Meyer