The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Alberto GARCIA, et al., Petitioners, v. Laura HERMOSILLO, Respondents.	Case No. 2:25-cv-1980-TMC **PETITIONERS' MOTION FOR ATTORNEY'S FEES AND COSTS** Noting Date: February 10, 2026

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INTRODUCTION

Respondents' arguments only underscore that agency actions and Respondents' litigation positions were made in bad faith, for they disregarded a court order. As to fees under the Equal Access to Justice Act (EAJA), Respondents misstate the law: it they, not Petitioners, who bear the burden. Indeed, Respondents acknowledge this Court has already decided that fees are warranted. And because only class counsel is equipped to litigate the group habeas petitions necessary for effective widespread relief for *Rodriguez Vazquez* Bond Denial Class members, enhanced fees are appropriate. Finally, this Court should not stay this litigation for the *Rodriguez Vazquez* appeal: regardless of what happens there, this case enforced a binding, final declaratory judgment.

ARGUMENT

I. Respondents have acted in bad faith, litigated in bad faith, and lacked substantial justification.

Respondents make the same arguments to assert both that they did not act in bad faith and had substantial justification. Established caselaw refutes these arguments. Indeed, as this Court has recognized, Petitioners "should never have been forced to file this habeas petition." *M.M. v. Hermosillo*, No. 2:25-CV-02074-TMC, 2026 WL 252076, at *3 (W.D. Wash. Jan. 30, 2026).

As a preliminary matter, Respondents err in asserting that "Petitioners have not carried their burden to show that Federal Respondents' position lacked substantial justification." Dkt. 22 at 2. Long-settled caselaw establishes that Respondents, not Petitioners, have the burden of demonstrating their position was substantially justified. *See, e.g.*, *Thangaraja v. Gonzales*, 428 F.3d 870, 874 (9th Cir. 2005). Respondents simply ignore and never address this caselaw, which Petitioners cited in their motion. *See* Dkt. 13 at 6–7.

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Respondents further err by asserting that declaratory relief did not require any change in agency practice or legal interpretation. Dkt. 22 at 5. Respondents never once address any of the cases that Petitioners cite explaining otherwise. *See* Dkt. 13 at 4–5 (citing cases). Those cases show that government officials are expected to comply with declaratory judgments, *see United Aeronautical Corp. v. U.S. Air Force*, 80 F.4th 1017, 1031 (9th Cir. 2023), consistent with the "basic proposition that all orders and judgments of courts must be complied with promptly." *Maness v. Meyers*, 419 U.S. 449, 458 (1975); *see also M.M.*, 2026 WL 252076, at *3.

To support their failure to apply the declaratory judgment to Petitioners, Respondents rely on inapposite caselaw. First, they point to part of *Camreta v. Greene*, 563 U.S. 692 (2011), where the Supreme Court discussed what cases clearly establish the law for purposes of qualified immunity. *Camreta*'s discussion of the effect of district court decisions is immaterial to this case, and *Camreta* does not permit a party to disregard a binding district court order issued *in that case*. Nor did the Court in *Camreta* discuss declaratory judgments or their impact on a certified class. Declaratory judgements are "legally binding on the parties." *Rodriguez Vazquez v. Hermosillo*, No. 3:25-CV-05240-TMC, 2026 WL 102461, at *6 (W.D. Wash. Jan. 14, 2026) (quoting *Owner-Operator Indep. Drivers Ass'n, Inc. v. Swift Transp. Co.*, 632 F.3d 1111, 1123 (9th Cir. 2011)). That is what matters for assessing whether Defendants had substantial justification, as well as for determining whether Respondents "disregard[ed] . . . the judicial process," *Brown v. Sullivan*, 916 F.2d 492, 496 (9th Cir. 1990) (citation omitted), and engaged in "willful disobedience of a court order," *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 766 (1980) (citation omitted).

Second, Respondents make the remarkable argument that because "the federal government is not subject to non-mutual offensive collateral estoppel," they were free to ignore the *Rodriguez Vazquez* final judgment. Dkt. 22 at 6. This argument is blatantly wrong. Critically,

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it depends on an unexplained assumption: that unnamed class members are somehow not parties to *Rodriguez Vazquez*. But Petitioners here are undisputed Bond Denial Class members and are therefore parties for purposes of the final judgment issued in *Rodriguez Vazquez*. This is black letter law. As the Supreme Court explained in *Devlin v. Scardelletti*, "class members" in a certified class action "are parties to the proceedings in the sense of being bound by [a] settlement." 536 U.S. 1, 10 (2002). A final judgment is no different: parties to a final judgment—including unnamed class members and defendants in class actions—are bound by that judgment. *See Cooper v. Fed. Rsrv. Bank of Richmond*, 467 U.S. 867, 874 (1984) ("A judgment in favor of either side [in a class action] is conclusive in a subsequent action between them on any issue actually litigated and determined . . . ."); *Hansberry v. Lee*, 311 U.S. 32, 42–43 (1940) (unnamed class members bound by final judgment).

Third, even if Respondents were correct that declaratory judgments act only as a means to invoke issue preclusion, *see* Dkt. 22 at 5, preclusion applies in administrative proceedings, including in the immigration context. For example, the Ninth Circuit has held that a final judgment in a habeas proceeding precluded the government from re-litigating the same issue in subsequent removal proceedings. *See Paulo v. Holder*, 669 F.3d 911, 917–18 (9th Cir. 2011). Similar to *Paolo*, this Court in *Rodriguez Vazquez* issued a final judgment as to class members regarding the legality of their detention, and Respondents—Defendants in *Rodriguez Vazquez*—subsequently ignored the resolution of that issue in proceedings before the agency. Binding caselaw from *Paolo*—and in many other cases—demonstrate this was nothing more than a flagrant violation of this Court's final judgment. *See also, e.g.*, *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015) ("Both this Court's cases and the Restatement make clear that issue preclusion is not limited to those situations in which the same issue is before two *courts*. Rather, where a single issue is before a court and an administrative agency, preclusion

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also often applies."). Indeed, agency precedent itself recognizes this basic principle. *See Matter of Fedorenko*, 19 I. & N. Dec. 57, 61 (BIA 1984) (applying collateral estoppel from federal court denaturalization case in subsequent removal proceedings), *abrogated on other grounds by*, *Negusie v. Holder*, 555 U.S. 511 (2009).

Respondents' citation to *Powell v. McCormack*, 395 U.S. 486 (1969) does not change any of these principles, i.e., that declaratory relief should alter a government actor's behavior, or that it precludes a different outcome in administrative proceedings. *Powell* was not a case about declaratory relief. Instead, there, the Court simply observed that "[a] declaratory judgment can . . . be used as a predicate to further relief, including an injunction," citing, inter alia, 28 U.S.C. § 2202. 395 U.S. at 499. That a declaratory judgment *may* be used to obtain further relief does not mean that further relief is *required* to give it effect. If anything, that "further relief" can be obtained recognizes that declaratory relief should alter a party's behavior, and that § 2202 exists to compel that change where necessary.

Fourth, Respondents accuse Petitioners of misusing EAJA to force compliance with the *Rodriguez Vazquez* judgment through monetary penalties. *See* Dkt. 22 at 5. This argument flips reality on its head: it is Respondents who have shown a "disregard [for] the judicial process," *Brown*, 916 F.2d at 496 (citation omitted), by "forcing class members to file habeas petitions." *M.M.*, 2026 WL 252076, at *3. Any payment of fees here, including fees required because of Respondents' bad faith, is simply the "self-inflicted result of [Respondents'] noncompliance with the Court's order." *Rodriguez Vazquez*, 2026 WL 102461, at *7.

Finally, with respect to Petitioners' bad faith argument, Respondents assert that the Court should not consider their assertions that the *Rodriguez Vazquez* decision is "advisory." Their argument depends entirely on the fact that the word "advisory" was used to publicly describe the decision, but not in a court filing. Dkt. 22 at 12–13. But the Court need not look any further than

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their response—and many other filings in *Rodriguez Vazquez*—to see that Respondents have described and treated this Court's decision as advisory. They told the Court in *Rodriguez Vazquez* any decision would be advisory. *See* Mot. to Dismiss at 20, 25–26, *Rodriguez Vazquez v. Hermosillo*, No. 3:25-cv-05240 (W.D. Wash. June 6, 2025), Dkt. 49. And they have since treated it as advisory, claiming they must follow "their own contrary binding precedent." Dkt. 22 at 5. That position defies the plain language of the declaratory judgment statute and Supreme Court precedent. *See, e.g.*, *Golden v. Zwickler*, 394 U.S. 103, 108–10 (1969).

In sum, Respondents' position lacked both substantial justification (before both the agency and in this litigation) and was taken in bad faith (before both the agency and in this litigation). Attorneys' fees are therefore appropriate.

II. Enhanced EAJA fees are warranted and counsels' rates are reasonable.

Counsel are entitled to market rate fees on two independent bases: enhanced fees under EAJA and Respondents' bad faith. As to the first, Respondents claim in conclusory fashion that "Petitioners have not shown that this case required distinctive skills beyond routine habeas and statutory interpretation litigation." Dkt. 22 at 9. But the Court's lengthy experience with *Rodriguez Vazquez* dispels the notion that the underlying issue here is one of routine statutory interpretation. The issue in *Rodriguez Vazquez* first arose in this district, and class counsel were the ones to develop the arguments that have since led the vast majority of judges across the country to reject Respondents' position. Those arguments were complex and required a deep understanding of the Immigration and Nationality Act's detention provisions. *See* Dkt. 16 ¶ 10; Dkt. 17 ¶ 9; Dkt. 18 ¶ 14; Dkt. 19 ¶ 14. Respondents cannot meaningfully contest that it is class

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counsel's deep expertise that allowed that challenge—and by extension, this challenge—to succeed, as several other practitioners attest.[1]

Moreover, Respondents miss the key difference between this case and others. It is precisely because class counsel has developed this expertise and represents the class members that they are uniquely positioned to expeditiously and efficiently litigate the serial enforcement habeas petitions required to secure Petitioners' rights. *See* Dkt. 16 ¶ 11; Dkt. 17 ¶¶ 10–11; Dkt. 18 ¶ 15. Respondents do not—and cannot—contest this point. Notably, on a per-petitioner basis, even with enhanced fees, Petitioners' fees request is similar to the amount the Court has already awarded in a related case. *Compare M.M.*, 2026 WL 252076, at *3 (awarding over $7,000 in a single petitioner case), *with* Dkt. 13 at 13 (requesting over $17,000 for this three-petitioner case). Class counsel also expects that the totals requested in each case will quickly plateau (or even decline), as later group petitions are likely to require less billing for fees motions, once this Court resolves how it will treat fees in these cases.

Finally, Respondents contest counsel's rates, arguing against the very matrix that the Department of Justice has produced to assess such rates. Respondents' only argument is that "[t]he Ninth Circuit has declined to apply D.C.-based matrices." Dkt. 22 at 9. But Petitioners have produced supporting declarations and rate approvals *from this Court* to show counsel's rates are appropriate. Respondents produce no evidence to the contrary and have no response to these cases or evidence. *See* Dkt. 22 at 9–10. Moreover, the reason the Ninth Circuit has rejected a D.C.-based matrix in one instance is because it resulted in rates that are *too low*, not too high.

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[1] Respondents also accuse Petitioners of "attempt[ing] to have it both ways" by saying their expertise was required even while the law was clear. Dkt. 22 at 9. But a case can be complex even where the statute yields a clear answer. And while Petitioners believe Respondents' underlying position in *Rodriguez Vazquez* was not substantially justified (because the statutes and other tools of interpretation provide a clear answer), the Court need not resolve that now. Here, the central issue is whether Respondents could disregard the declaratory judgment.

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See Prison Legal News v. Schwarzenegger, 608 F.3d 446, 454 (9th Cir. 2010); *see also* Dkt. 13 at 11–12 (citing cases). Petitioners' reliance on the Fitzpatrick Matrix is therefore reasonable.

III. The Court should not stay its decision.

The Court should reject Respondents' request to stay its decision pending the outcome of the *Rodriguez Vazquez* appeal. Respondents have not filed a separate stay motion, and ultimately, whatever happens in *Rodriguez Vazquez* does not affect fees here because this case was based on a final declaratory judgment, not the underlying rationale of *Rodriguez Vazquez*.

CONCLUSION

For all these reasons, Petitioners requests that the Court grant their requested fees and costs in the amount of $25,471.80 which includes the additional time necessary to prepare this reply. *See* Ex. A (fees and costs chart); Ex. B (timekeeping entries).

DATED this 10th day of February, 2026.

I certify that this memorandum contains 2,100 words, in compliance with the Local Civil Rules.

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