The Honorable Tiffany M. Cartwright

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Marco CANTERO GARCIA, et al.,

Petitioners,

v.

Julio HERNANDEZ, et al.,

Respondents.

Case No. 2:25-cv-2092-TMC

PETITIONERS' MOTION FOR ATTORNEY'S FEES AND COSTS

Noting Date: March 19, 2026

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INTRODUCTION

Respondents' arguments underscore that agency actions and Respondents' litigation positions were made in bad faith and lack substantial justification, for they disregarded a court order. As for fees under the Equal Access to Justice Act (EAJA), enhanced fees are appropriate because only class counsel is equipped to litigate the group habeas petitions necessary for effective widespread relief for *Rodriguez Vazquez* Bond Denial Class members. And in any event, market rate fees are available due to Respondents' bad faith. The Court should accordingly grant the motion.

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).

Respondents are incorrect that *Rodriguez Vazquez* declaratory relief did not require any change in agency practice or legal interpretation. Dkt. 31 at 5–6. Respondents never once address any of the cases that Petitioners cite explaining otherwise. *See* Dkt. 18 at 4–6 (citing cases).

Instead, Respondents rely on inapposite caselaw. 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 qualified immunity purposes. *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 court order that binds a party. Nor did the Court in *Camreta* discuss declaratory judgments or their impact on a certified class. Declaratory judgements are "legally binding on the parties."

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Rodriguez Vazquez v. Hermosillo, No. 3:25-CV-05240-TMC, 2026 WL 102461, at *6 (W.D. Wash. Jan. 14, 2026) (citation omitted). That is what matters for assessing 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. 31 at 7. This argument is blatantly wrong. It depends on an unexplained assumption: that unnamed class members are not parties to *Rodriguez Vazquez*. But Petitioners are undisputed Bond Denial Class members and are therefore parties for purposes of the *Rodriguez Vazquez* final judgment. 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 . . . .").[1]

Third, even if Respondents were correct that declaratory judgments act only to provide issue preclusion, *see* Dkt. 31 at 6, preclusion applies in administrative proceedings. For example,

[1] Respondents cite *Hart v. Massanari*, 266 F.3d 1155 (9th Cir. 2001) for a principle regarding non-acquiescence which the case does not appear to address at all. Dkt. 31 at 8. In any event, non-acquiescence cannot apply where issue preclusion applies. *See infra* pp. 2–3.

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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 judgment in agency proceedings. *Paolo* and other cases demonstrate this was nothing more than a flagrant violation of this Court's final judgment. *See, e.g.*, *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138, 148 (2015) (issue preclusion applies to administrative proceedings).

Respondents' citation to *Powell v. McCormack*, 395 U.S. 486 (1969), does not change these principles. *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.

Fourth, Respondents accuse Petitioners of misusing EAJA to force compliance with the *Rodriguez Vazquez* judgment. *See* Dkt. 31 at 6. 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 is simply the "self-inflicted result of [Respondents'] noncompliance with the Court's order." *Rodriguez Vazquez*, 2026 WL 102461, at *7.

Fifth, Respondents assert the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026) makes their position justified. Dkt. 31 at 4–5. It does not. *Buenrostro-Mendez* is not controlling and it is an outlier. Just as important, the merits of *Rodriguez Vazquez*

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are ultimately immaterial here: the key fact here is that there was a declaratory judgment that Respondents did not honor in subsequent agency proceedings.

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" because that claim was made in the press. Dkt. 31 at 14. But they have 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 more importantly, they have since treated it as advisory, claiming they must follow "their own contrary binding precedent." Dkt. 31 at 6. 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).[2]

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 bad faith. As to the first, Respondents claim that "Petitioners have not shown that this case required distinctive skills as only knowledge of routine habeas corpus procedures and statutory interpretation concepts were necessary." Dkt. 31 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 required a deep

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[2] Respondents also invoke sovereign immunity, asserting that because of it, the caselaw Petitioners have cited on bad faith is "inapposite." Dkt. 31 at 3. This argument makes no sense. As Respondents acknowledge, sovereign immunity is waived where the common law allows attorney fees, and "[t]he common law allows a court to assess attorney's fees against a losing party that has acted in bad faith." *Rodriguez v. United States*, 542 F.3d 704, 709 (9th Cir. 2008) (citation modified).

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understanding of the Immigration and Nationality Act's detention provisions. *See* Dkt. 21 ¶ 10; Dkt. 22 ¶ 9; Dkt. 23 ¶ 14. Respondents cannot meaningfully contest that it is class counsel's expertise that ensured that challenge—and by extension, this challenge—succeeded.[3]

Moreover, Respondents miss the key difference between this case and others filed by private practitioners. Because these enforcement actions involve a certified class, and because class counsel has successfully moved to enforce the classwide judgment (including obtaining a court order requiring notice to class members and counsel that facilitates further enforcement actions), class counsel uniquely positioned to expeditiously and efficiently litigate the serial enforcement habeas petitions required to secure Petitioners' rights. *See* Dkt. 21 ¶ 11; Dkt. 22 ¶¶ 10–11; Dkt. 23 ¶ 15. Respondents do not—and cannot—contest this point. Notably, on a per-petitioner basis, even with enhanced fees, Petitioners' fees request is much less than what the Court has already awarded. *Compare M.M.*, 2026 WL 252076, at *3 (awarding over $7,000 in a single petitioner case), *with* Dkt. 18 at 13 (requesting approximately $13,000 for this five-petitioner case). Later-filed fees requests for other groups habeas petitions involve similar or even lesser amounts.[4]

Finally, Respondents contest counsel's rates, arguing against the very matrix that the Department of Justice has produced to assess such rates. Respondents' main argument is that "[t]he Ninth Circuit has declined to apply D.C.-based matrices." Dkt. 31 at 11. But Petitioners

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[3] 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. 31 at 9. But a case can be complex even where the statute yields a clear answer. Moreover, as noted, the Court need not resolve that now; the issue here is whether Respondents could disregard the declaratory judgment.

[4] Respondents assert that Petitioners' citations to the *Koonwaiyou* and *Wagafe* cases are inapplicable because those were not routine immigration cases. But neither is *Rodriguez Vazquez*, which has required class counsel to develop new statutory arguments, represent a class, and work to defend class members through enforcement actions. And ultimately, Respondents acted in bad faith, and thus no showing of enhanced fees is necessary, because bad faith fees are awarded at the market rate.

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have produced supporting declarations and rate approvals *from this Court* to justify counsel's rates. Respondents produce no contrary evidence. *See id.* at 10–11. 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*. *See Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 454 (9th Cir. 2010); *see also* Dkt. 18 at 11–12 (citing cases). Petitioners' reliance on the Fitzpatrick Matrix is therefore reasonable.

For similar reasons, the Court should award the rate of $255 for the .75 hours worked by support staff. This rate is also derived from the Fitzpatrick Matrix. Courts in this district have previously awarded fees for paralegals at this rate. *See Cardozo v. Bostock*, Case No. 2:25-cv-00871-TMC (W.D. Wash.), Dkts. 31-1 (showing paralegal rate of $236, consistent with Fitzpatrick Matrix for work performed in 2024), 34 at 6 (granting requested fee award); *Parada Calderon v. Bostock*, Case No. 2:24-cv-01619-MJP (W.D. Wash.), Dkts. 22-2, 28-2, 29 at 4 (similarly granting award for paralegal work at hourly rate of $236). To justify their $100/hour rate, Respondents rely on rates under the Criminal Justice Act (CJA) and a 2018 case, but CJA rates are not market rates, rates have increased significantly since 2018, and the 2018 case did not even appear to litigate the rate issue. *See, e.g.*, *Kelly v. Wengler*, 822 F.3d 1085, 1103 (9th Cir. 2016) (observing that "actual prevailing rates are very unlikely to be as low" as the rate used in Prison Litigation Reform Act cases, derived from CJA rates).

III. The fees should not be reduced because of Petitioner Munoz Quiterio

Respondents also request a 20% reduction in fees because Petitioner Munoz Quiterio did not prevail. Dkt. 31 at 4. But caselaw has repeatedly made clear that where not all claims result in success, awarding fees for all time worked is still appropriate where those claims are related. *See, e.g.*, *Hensley v. Eckerhart*, 461 U.S. 424, 440 (1983); *Edmo v. Corizon, Inc.*, 97 F.4th 1165, 1169 (9th Cir. 2024). Moreover, class counsel present group habeas petitions precisely because it

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is exponentially more efficient than simply filing individual claims. Respondents provide no justification to conclude that 20% of the time relates to Petitioner Munoz Quintero. The Court should deny the requested reduction.

CONCLUSION

Petitioners request that the Court grant their request for $16,796.40 in fees and costs, which includes the time necessary to prepare this reply. *See* Ex. A (fees and costs chart); Ex. B (timekeeping entries).

DATED this 19th day of March, 2026.

I certify that this memorandum contains 2,098 words, in compliance with the Local Civil Rules.

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