District Judge David G. Estudillo
Magistrate Judge Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

A-C-J-,

Petitioner,

v.

Julio HERNANDEZ, et al.,

Respondents.

CASE NO. 2:25-cv-02486-DGE-MLP

PETITIONER'S REPLY IN SUPPORT OF MOTION FOR ATTORNEY'S FEES AND COSTS

Noting Date: May 1, 2026

INTRODUCTION

The Court should grant Petitioner's requested fees in full: $13,128.58. The Government agrees that Petitioner is entitled to fees under the under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. However, it objects to the enhanced rate and the total time billed. The enhanced rate and the time billed are reasonable in this case.

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

ARGUMENT

A. Petitioner is entitled to enhanced rates under the EAJA.

The Ninth Circuit has found that "a specialty in immigration law could be a special factor warranting an enhancement of the statutory rate." *Rueda-Menicucci v. I.N.S.*, 132 F.3d 493, 496 (9th Cir. 1992). This is because immigration law is a "labyrinth almost as impenetrable as the Internal Revenue Code," requiring specialized knowledge. *Escobar-Grijalva v. I.N.S.*, 206 F.3d 1331, 1335 (9th Cir. 2000). Courts have awarded enhanced attorney's fees based on specialized knowledge of immigration law in cases which "involved more than established principles of law with which the majority of attorneys are familiar." *Nadarajah v. Holder*, 569 F.3d 906, 914 (9th Cir. 2009). Second language skills support a finding of "distinctive knowledge and specialized skills." *See Pierce v. Underwood*, 487 U.S. 552, 572 (1988) (listing knowledge of a foreign language as an example of "distinctive knowledge or specialized skill needful for the litigation in question").

As this Court has recognized, there are three elements required to establish entitlement to enhanced fees under 28 U.S.C. § 2412(d)(2)(A): "(1) whether counsel possesses 'distinctive knowledge' and 'specialized skills'; (2) whether this knowledge or skills were 'needful to the litigation in question'; and (3) whether competent counsel was 'not available elsewhere at the statutory rate.'" *Rahman v.*

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

Bondi, Case No. 2:24-cv-02132-JHC-TLF, 2026 U.S. Dist. LEXIS 25344, *7 (W.D. Wash. Feb. 6, 2026) *citing Nadarajah*, 569 F.3d at 912–15. Contrary to Respondents' position, the EAJA motion meets these three requirements here.

First, Counsel has specialized knowledge of removal proceedings before the immigration courts and appellate bodies as she has been practicing in that field for the past 12 years. (Dkt. No. 23-2 at 2). Her Spanish fluency has better allowed her to communicate with her client and prepare this litigation. (Dkt. No. 23-1 at 3). Counsel specializes in the representation of unaccompanied children, representation of individuals in removal proceedings, and in bond proceedings. *Supp. Alexander Decl.* This is sufficient to show distinctive knowledge.

Second, Counsel's background was "needful to the litigation in question," which involved complex questions concerning detention authority as applied to an unaccompanied child previously released from the custody of the Office of Refugee Resettlement. (Dkt. No. 19 at 7–9).

Third, Counsel's hourly rate through her private practice is $350 and she would not have been able to take on this case at the statutory rate or absent ECO program funding. (Dkt. No. 23-2 at 3); *Supp. Alexander Decl.* at 3. Given the shortage in immigration counsel in the Pacific Northwest and nationwide, Counsel

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

does not believe that other counsel would have been available to file and litigate this habeas petition at the statutory rate. *Supp. Alexander Decl.* at 3.

Nationwide, there is a shortage of immigration counsel, particularly for removal defense, where the need for counsel skyrocketed in 2025. *See* Adriel Orozco, AMER. IMM. COUNCIL, *A Shortage of Immigration Lawyers is Another Barrier to Integration for Immigrants* (Jan. 31, 2024) *available at* https://www.americanimmigrationcouncil.org/blog/shortage-immigration-lawyers-barrier/; Katrina Elias, SPOKANE J. OF BUSINESS, *Immigration Law Firms hit with Skyrocketing Demand* (March 27, 2025) *available at* https://www.spokanejournal.com/articles/16938-immigration-law-firms-hit-with-skyrocketing-demand. Washington, though among one of the states with the highest representation rates, is still only at a rate of representation between 30% and 40% in removal proceedings. TRAC, *Too Few Immigration Attorneys* (Jan. 24, 2024) *available at* https://tracreports.org/reports/736/. The ECO program further provides that its objective "is to provide universal representation, which protects our communities by making sure that no individual faces the risk of deportation or exclusion without legal consultation and representation," a goal aimed at providing otherwise unavailable representation. (Dkt. No. 23-3 at 2).

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

To meet this third requirement for enhanced fees, "[n]o one expects the plaintiffs to conduct statistical surveys." *Rahman*, Case No. 2:24-cv-02132-JHC-TLF 2026 U.S. Dist. LEXIS 25344 at *10 (internal citations omitted). Thus, this evidence is sufficient to meet the additional requirement that qualified attorneys were not available at the statutory rate of $258.46. (Dkt. 23-2 at 3).

Should the Court find against Ms. C-J- on this element, the requested award amount at the statutory rates is **$11,130.97** = $10,286.70 (39.8 hours attorney time at $258.46) + $345.8 (2.6 hours paralegal hours at $133) + $498.47 (costs).

B. The hours claimed here are reasonable.

Respondents contend that Petitioner's billing entries are vague, duplicative or excessive. The Ninth Circuit has explained that "[b]y and large, the court should defer to the winning lawyer's professional judgment as to how much time he was required to spend on the case; after all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*, 534 F. 3d 1106, 1112 (9th Cir. 2008). Nor should a court "attempt to impose its own judgment regarding the best way to operate a law firm, nor to determine if different staffing decisions might have led to different fee requests." *Id.* at 1115. Respondents do not heed these principles. Instead, they propose drastically reducing the number requested attorney hours, by cutting them nearly in half from 39.8 attorney hours to 20. (Dkt. No. 25 at 2).

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

The proposed hours here are on par with those found reasonable in similar recent habeas cases. *E.g. Rahman*, 2026 U.S. Dist. LEXIS 25344 at *5 (describing "88.9 hours worked (82.8 hours by Vomacka, 4.8 hours by Boyd, and 1.3 hours by Smith"); *Garcia v. Wamsley*, Case No. 2:25-cv-01980-TMC, 2026 U.S. Dist. LEXIS 58222, *22 (WD Wash. March 19, 2026) (describing "7.2 hours for Matt Adams; 2.85 hours for Glenda Aldana Madrid; 4.2 hours for Leila Kang; 17.8 hours for Aaron Korthuis; and 5.5 hours for Sydney Maltese" for a total of 37.55, though in distinguishable multi-petitioner habeas petition).

C. The costs claimed are reasonable.

The costs claimed are reasonable. The Respondents challenge certified mail fees required at the time for proper service of the summons and the complaint. FRCP 4(i). These costs are justified.

Respondents further challenge phone money and commissary money provided to Ms. C-J- while detained. (Dkt. No. 25 at 7). Those funds would not have been necessary absent the unlawful detention challenged by this petition or if Respondents provided detained individuals in their custody with free phone service and adequate supplies to tend to basic needs, like cups for drinking water. *See* U.S ICE, *Statement on free cell phone minutes provided during the COVID-19 public health emergency* (Aug. 6, 2024) *available at* https://www.ice.gov/news/releases/

Nancy Alexander
Lucas & Barba LLP
1201 SW 12th Street, Suite 410
Portland, OR 97205
(503) 457-4495

statement-free-cell-phone-minutes-provided-during-covid-19-public-health-emergency (documenting an end to COVID era free phone minutes); *C-J- Decl.* (Dkt. 9 at ¶ 9) ("When I first got to Tacoma there were two days when I was not able to drink any water because there were no cups available. I just had milk in the morning. The only way to get a cup is to buy one at the commissary and I didn't have any money for that. Eventually, I was able to get a cup because my friends who were deported left theirs for me").

CONCLUSION

Ms. C-J- accordingly respectfully requests that this Court grant her requested fees and costs in the amount of $13,128.58. Should the Court wish to award additional fees for time spent preparing this reply brief, the total fee award would be $13,960.18 (original award requested plus 2.7 hours x $308 = $ 831.60). *See Supp. Alexander Decl.*

Dated: April 30, 2026

Respectfully Submitted,

s/Nancy Alexander
Nancy Alexander (Pro Hac Vice)
OSB # 185664
CASB # 293572
Lucas & Barba LLP
1201 SW 12th Ave., Suite 410
Portland, OR 97205
(503) 457-4495

s/Shara Svendsen
Shara Svendsen, WSB # 38151
Law Office of Shara Svendsen PLLC
16300 Mill Creek Blvd. Ste 206
Mill Creek, WA 98012

Attorneys for Petitioner

WORD COUNT CERTIFICATION

I certify that this memorandum contains 1,413 words, in compliance with the Local Civil Rules.

DATED this 30th day of April, 2026.

s/Nancy Alexander
Nancy Alexander (Pro Hac Vice)
OSB # 185664
CASB # 293572
Lucas & Barba LLP
1201 SW 12th Ave., Suite 410
Portland, OR 97205
(503) 457-4495