

The Honorable Brian A. Tsuchida

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Harrinson Jose OSUNA BENITEZ,

Petitioner,

v.

Laura HERMOSILLO, et al.,¹

Respondents

Case No. 2:25-cv-02535-BAT

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

**Noted for Consideration:
April 17, 2026**

INTRODUCTION

The Court should grant Petitioner's requested fees. In its response, the government does not oppose fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. Section 2412, at the statutory rate or under common law. It opposes EAJA fees at an enhanced rate, and for the total time billed. But the enhanced rate and time billed are appropriate in this case.

ARGUMENT

I. Petitioner's requested fees are reasonable

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

¹ Pursuant to Fed. R. Civ. P. 25(d), Federal Respondents substitute Acting Seattle Field Office Director, U.S. Immigration and Customs Enforcement Julio Hernandez for Laura Hermosillo.

1 Respondent does not contest that two of Petitioner's attorneys have "distinctive
2 knowledge and skills" but is incorrect in asserting that distinctive skills were not needed for *this*
3 litigation or that qualified counsel was not available at the statutory rate or that those skills were
4 not available at the statutory rate.

5 Respondents do not meaningfully contest Attorney Vomacka's enhanced rate of
6 \$650/hour.

7 Respondents cite the lack of declaration from attorney Julia Braker stating that she would
8 not be willing to represent the Petitioner at the statutory rate. Ms. Braker is an attorney at a non-
9 profit that provides pro bono legal services through funding from the Equity Corps of Oregon
10 (ECO). To qualify for aid from the Equity Corps of Oregon, a participant such as Mr. Osuna
11 must have a household income below 200% of federal poverty guidelines.

12 Petitioner's low-income status should not cut against the need for enhanced fees in this
13 case. To the contrary and as mentioned in Petitioner's EAJA motion, it speaks to the reason that
14 EAJA exists: "[T]he specific purpose of the EAJA is to eliminate for the average person the
15 financial disincentive to challenge unreasonable government actions." *Commissioner, I.N.S. v.*
16 *Jean*, 496 U.S. 154, 163 (1990). "The government's general interest in protecting the federal fisc
17 is subordinate to the specific statutory goals of encouraging private parties to vindicate their
18 rights and 'curbing excessive regulation and the unreasonable exercise of government
19 authority.'" *Jean*, 496 U.S. at 164 (footnotes omitted). Particularly when that right is due process
20 before the deprivation of one's liberty, the intent of EAJA leans towards enhanced fees in
21 situations like this.

22 Requiring low-income levels to qualify for a pro bono legal representation shows that Mr.
23 Osuna could not have afforded a private attorney, even at the statutory EAJA rate, if one were
24 even available to take on his case, especially while he was detained and unable to work. Further,

1 while Federal Respondents list a number of cases where private counsel represented individuals
2 in habeas petitions, this evidence does nothing to support their position that there is an excess of
3 counsel in comparison to the demand and need.

4 As Federal Respondents mention, Ms. Braker requested the statutory rate in *Daixon*
5 *Ramirez Tesara v. Hermosillo*, No. 25-cv-01723-KKE. This was as a matter of course of
6 compromise with co-counsel, and she is not requesting the statutory rate now.

7 Although this is only Attorney Braker's second habeas case as counsel, her experience in
8 immigration detention work greatly informed her ability and speed with which she prepared the
9 case. She has practiced immigration law in the federal courts since 2015, which, again informed
10 her ability and speed. Federal Respondents do not meaningfully engage with Petitioner's
11 statistical evidence and peer declarations regarding the base rate that would be appropriate for
12 Ms. Braker and the documented lack of legal representation in this area of law. Federal
13 Respondents also ignored the fact that Ms. Braker is fluent in Spanish, a factor that the Supreme
14 Court has specifically listed as appropriate for consideration in enhanced fees. *See Pierce v.*
15 *Underwood*, 487 U.S. 552, 572 (1988) (listing knowledge of a foreign language as an example of
16 "distinctive knowledge or specialized skill needful for the litigation in question").

17 Thus, enhanced fees should be granted in this case.

18 **b. The billing entries are not vague, duplicative or excessive.**

19 Respondent contend that Petitioner's billing entries are vague, duplicative or excessive.
20 The Ninth Circuit has explained that "[b]y and large, the court should defer to the winning
21 lawyer's professional judgment as to how much time he was required to spend on the case; after
22 all, he won, and might not have, had he been more of a slacker." *Moreno v. City of Sacramento*,
23 534 F. 3d 1106, 1112 (9th Cir. 2008). Nor should a court "attempt to impose its own judgment
24

1 regarding the best way to operate a law firm, nor to determine if different staffing decisions
2 might have led to different fee requests.” *Id.* at 1115.

3 Respondents do not heed these principles. Instead, they propose drastically reducing the
4 number requested hours. Regarding Respondents accusation that the billing entries are vague,
5 the evidence demonstrates to the contrary, as the time entries describe specific tasks. It is
6 unclear how Petitioner’s legal team could be more descriptive about tasks without becoming
7 excessively long and, in turn, leading to billing entries about the billing entries and making poor
8 use of all parties’ time and resources.

9 While Petitioner’s attorneys should be fully entitled to their time, as a matter of
10 compromise and without conceding the point, Petitioner offers to reduce any full-hour entries of
11 2 hours or above by 20%. This change is reflected in the attached updated time chart, which
12 also includes the time spent in preparing this response.

13 Respondents also argue that multiple billing entries are duplicative. That conclusion is
14 unwarranted. The “[p]articipation of more than one attorney does not necessarily amount to
15 unnecessary duplication of effort.” *Democratic Party of Washington State v. Reed*, 338 F.3d
16 1281, 1286 (9th Cir. 2004). The individuals whose entries Defendants propose eliminating or
17 reducing helped draft, edit and review motions, review and prepare exhibits, and confer
18 regarding case strategy. *[cite]* Requesting fees for such work is reasonable. Here, as in other
19 cases, “[a] fair amount of conferencing among the attorneys was reasonable for [a case] of this
20 complexity.” *Nadaraja v. Holder*, 569 F.3d 906, 925 (9th Cir. 2009). Similarly, billing for
21 editing on motions is standard practice, and it is unclear why Respondents think that providing
22 feedback on and editing motions constitutes “duplicative” work. *See id.* (holding that entries for
23 edits on briefing was compensable); *Prison Legal News v. Schwarzenegger*, 561 F. Supp. 2d
24 1095, 1104 (N.D. Cal. 2008) (awarding fees for 35 hours of “researching, drafting, reviewing

1 and editing the complaint”); *id.* at 1103 (“[I]t is not unreasonable to expect that the partner
2 supervising the case would have multiple entries for conferencing and emailing with the
3 associates working with him.”).

4 Additionally, besides Attorney Braker, CLEAR Clinic attorneys and support staff assisted
5 with client communications, declaration drafting, and compiling supporting materials. *See*
6 *generally* Dkt. 19. Nor are the time entries for these matters excessive: the time billed is
7 measured in a matter of hours, in ten-minute or tenth of an hour increments.² This is not
8 overstaffing a case or excessive billing: it is common sense and reflects a responsible and
9 sensible legal practice, particularly in a case involving a relatively new legal argument. *See,*
10 *e.g., Reed*, 388 F.3d at 1287 (awarding fees where parties assigned several attorneys to
11 collaborate on briefing). Ultimately, Respondents do little to identify work that was truly
12 duplicative, and simply assert it is so. But claims of “duplicative work should not become a
13 shortcut for reducing an award without identifying just why the requested fee was excessive and
14 by how much.” *Moreno*, 534 F.3d at 1113.

15 The Court should accordingly reject Respondents’ effort to depict Petitioner’s attorneys’
16 billing as vague, duplicative or excessive and reject their request to lower the requested fees by
17 30%.

18 **c. The remaining timekeepers should receive standard EAJA rate.**

19 Federal Respondents suggest reducing fees for timekeepers Douglas Valladares, Natalie
20 Webb, Jackie Johnson, and Leo Ariel. The Court should reject that unreasonable position.
21 Petitioner’s counsel would like to clarify that timekeepers Valladares and Webb are attorneys
22 and Johnson and Ariel are paralegals, and all request the statutory rate.

23
24 ² In addition, while not reflected in Petitioner’s motion, Petitioner’s counsel eliminated several time entries prior to
filing the motion for fees as an exercise of billing judgment.

Douglas Valladares and Natalie Webb are licensed attorneys barred in the State of Oregon, both of whom were admitted on October 5, 2023.³ Both have exclusively practiced immigration law since 2023. Attorney Valladares is fluent in Spanish, allowing him to complete tasks such as client meetings and declaration review in half the time or less that it would take if Petitioner's counsel needed to use an interpreter. *See Pierce*, 487 U.S. 552 at 572 (1988). Although Attorney Valladares could request enhanced fees based on his special language skills, as a matter of compromise and reasonableness, both attorneys request the standard EAJA rate.

Petitioner also requests the statutory EAJA rate for paralegals Jackie Johnson and Leo Ariel. The EAJA rates provided by the Ninth Circuit do not specify a rate for paralegal work, *see Statutory Maximum Rates Under the Equal Access to Justice Act*, United States Courts for the Ninth Circuit, <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates> (last visited Apr. 15, 2026). Counsel in federal immigration cases have previously sought and been awarded those rates when requesting compensation for paralegal work, *see Koonwaiyu v. Blinken*, Case No. 3:21-cv-05474-DGE, Dkts. 37-3 at 3 & 50-1 at 3 (reflecting EAJA statutory rate for paralegal Maltese), Dkt. 51 at 17–18 (granting fee award without reducing paralegal rate). Especially because paralegals Johnson and Ariel are fluent in Spanish, the Court should consider the extremely reduced amount of billing saved because of their specialty skills. *See Pierce*, 487 U.S. 552 at 572 (1988).

Alternatively, Petitioner requests that the Court compensate this work at \$255/hour, which is the rate established by the Fitzpatrick Matrix, developed and maintained by the U.S. Attorney's Office for the District of Columbia, *see* U.S. Attorney's Office for the District of Columbia, Civil Division, The Fitzpatrick Matrix, at 1, <https://www.justice.gov/usao->

³ Their Oregon State Bar membership information is publicly available at: https://www.osbar.org/members/membersearch_start.asp

1 dc/media/1395096/dl?inline (last visited Apr. 15, 2026) (PDF on file with counsel). The Matrix
2 is “intended for use in cases in which a fee-shifting statute permits the prevailing party to
3 recover ‘reasonable’ attorney’s fees,” including EAJA, *id.* at 2, and thus provides an appropriate
4 benchmark for prevailing market rates. Courts in this district have previously awarded fees for
5 paralegals based on the same rates reflected in this matrix. *See Cardozo v. Bostock*, Case No.
6 2:25-cv-00871-TMC (W.D. Wash.), Dkts. 31-1 (showing requested paralegal rate of \$236
7 consistent with Fitzpatrick Matrix for work performed in 2024), 34 at 6 (granting requested fee
8 award); *Parada Calderon v. Bostock*, Case No. 2:24-cv-01619-MJP (W.D. Wash.), Dkts. 22-2,
9 28-2, 29 at 4 (similarly granting award for paralegal work at hourly rate of \$236 consistent with
10 Fitzpatrick Matrix). Respondents rely on rates under the Criminal Justice Act (CJA) as a
11 benchmark and a 2018 case awarding a similar rate, but CJA rates are not market rates, and
12 rates have increased significantly since 2018. *See, e.g., Kelly v. Wengler*, 822 F.3d 1085, 1103
13 (9th Cir. 2016) (observing that “actual prevailing rates are very unlikely to be as low” as the rate
14 used in Prison Litigation Reform Act cases, derived from CJA rates). The Court should
15 therefore award the paralegal fees at the requested rate.

16 CONCLUSION

17 Mr. Osuna accordingly respectfully requests that this Court grant his requested fees and
18 costs in the amount of \$ \$31,238, which reflects the adjustments above and time for preparing
19 this reply.

20 DATED this 15th of April, 2026.

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15 **WORD COUNT CERTIFICATION**

16 I certify that this memorandum contains 1,877 words, in compliance with the Local Civil
17 Rules.

18 DATED this 15th day of April, 2026.

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