UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LUIS MANUEL PADUA VARGAS, Petitioner, vs. JASON STREEVAL, *in his official capacity as Warden of Stewart Detention Facility*; and LADEON FRANCIS, *ICE Atlanta Field Office Director*; and TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security* And PAMELA BONDI, *U.S. Attorney General*. Respondents.	CASE NO.: 4:25-cv-499 (CDL)

PETITIONER'S MOTION FOR COSTS, FEES, AND OTHER EXPENSES UNDER THE EQUAL ACCESS TO JUSTICE ACT

Petitioner moves, under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), for attorneys' fees incurred in his petition for writ of habeas corpus challenging his unlawful civil immigration detention by the Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) at the Stewart Detention Facility in Lumpkin, Georgia. This Court granted Petitioner's petition for a writ of habeas corpus on December 29, 2025. *See* ECF No. 6.

Petitioner seeks an award of attorneys' fees and expenses under EAJA. As detailed in the accompanying memorandum, an award is mandatory because **Petitioner is the prevailing party in a civil action** for EAJA purposes; **the government's position was not substantially justified** and has been rejected by this Court and a near-unanimity of federal courts nationwide; and no special circumstances make an award unjust. Further, special factors, including counsel's specialized expertise in immigration federal court and habeas litigation and the limited availability of such counsel in Georgia, justify an enhanced fee award.

Petitioner's request is timely filed. Under 28 U.S.C. § 2412(d)(1)(B), an EAJA application must be filed "within thirty days of final judgment in the action," and "final judgment" is defined as "a judgment that is final and not appealable." 28 U.S.C. § 2412(d)(2)(G). This Court granted Petitioner's habeas petition and entered judgment on December 29, 2025. Respondents therefore had sixty (60) days from December 29, 2025, to file any appeal. See Fed. R. App. P. 4(a)(1)(B)); *Myers v. Sullivan*, 916 F.2d 659, 666 (11th Cir. 1990). Because no appeal was filed, the judgment became "final and not appealable" when that 60-day period expired, and this EAJA application—filed on March 30, 2026—is timely under § 2412(d)(1)(B), as it was submitted within thirty days after the judgment became final.

Petitioner is an eligible party. Under 28 U.S.C. § 2412(d)(2)(B), an individual is an eligible party if his or her net worth did not exceed $2,000,000 at the time the civil action was

filed. Petitioner meets this requirement. *See* Exhibit 1 (Declaration of Petitioner, Luis Manuel Padua Vargas at ¶ 1). Contemporaneously with this motion, Petitioner submits an itemized statement from his counsel showing the actual time expended and the rates at which fees and costs are claimed, together with supporting declarations and documentation.

RELEVANT FACTS AND PROCEDURAL HISTORY

Petitioner assumes the Court's familiarity with the facts of the case but reiterates the procedural history briefly for purpose of demonstrating the work Petitioner's counsel conducted in the case. Petitioner filed his petition for writ of habeas corpus on December 21, 2025. ECF No. 1. On December 29, 2025, the Court granted Petitioner's habeas petition and ordered that "Respondents shall provide Petitioner with a bond hearing to determine if Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations." ECF No. 6. The Court then entered a judgment in favor of Petitioner on December 29, 2025. ECF No. 7.

ARGUMENT

I. The Court Should Award Attorney Fees and Costs to Petitioner under EAJA.

The EAJA statute at 28 U.S.C. § 2412(d)(1)(A) dictates that, unless otherwise specifically provided for by statute, a "court shall award to a prevailing party other than the United States fees and other expenses … incurred by that party in any civil action … brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust."[1]

[1] 28 U.S.C. § 2412(d)(1)(A) states: Except as otherwise specifically provided by statute, a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), incurred by that party in any civil action (other than cases sounding in tort), including proceedings for judicial review of agency action, brought by or against the United States in any court having jurisdiction of that action, unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

Abdelgalel v. Holder, 398 F. App'x 472, 476 (11th Cir. 2010); *Morillo–Cedron v. District Director, U.S. Citizenship & Immigration Servs.*, 452 F.3d 1254, 1258 (11th Cir. 2006); *Pichon v. Bisignano*, No. 1:24-CV-2855-AT, 2025 WL 3909470, at *1 (N.D. Ga. Nov. 24, 2025).

Petitioner is an eligible party under EAJA because he is a private individual whose net worth has never exceeded 2 million dollars. *See* Ex.1; 28 U.S. Code § 2412(d)(2)(B) (defining "party" means (i) an individual whose net worth did not exceed $2,000,000 at the time the civil action was filed). In short, absent a showing by the government that its position was "substantially justified or that special circumstances make an award unjust," the award of fees and expenses to the "prevailing party" is mandatory, since 28 U.S.C. § 2412(d)(1)(A) uses the language "shall award."

II. Petitioner is the Prevailing Party. The Court Granted his Habeas Petition and Ordered the Government to Provide Him with a Bond Hearing.

To obtain an award of attorneys' fees and expenses under EAJA, Petitioner must demonstrate that he was the "prevailing party." 28 U.S.C. § 2412(d)(1)(A). According to the Supreme Court, "a 'prevailing party' is one who has been awarded some relief by a court" and who has obtained a "court-ordered change in the legal relationship" between the parties. *Buckhannon Bd. & Care Home Inc., v. West Virginia Dep't of Health and Human Res.*, 532 U.S. 598, 603-605 (2001) ("enforceable judgments on the merits [ ] create 'the material alteration of the legal relationship of the parties' necessary to permit an award of attorney's fees."); *Rhoten v. Bowen*, 854 F.2d 667, 669 (4th Cir. 1988) (Litigants are considered "prevailing parties" under the EAJA "if they succeed on any significant issue in litigation which achieves some of the benefit the parties sought in bringing suit."); *see also Morillo-Cedron v. U.S. Citizenship and Immigration*, 452 F.3d 1254, 1257 (11th Cir. 2006); *Abdelgalel v. Holder*, 398 F. App'x 472, 476 (11th Cir. 2010); *Am. Disability Ass'n, Inc. v. Chmielarz*, 289 F.3d 1315, 1319 (11th Cir. 2002).

Petitioner bears the burden of proving that he is the prevailing party and eligible to receive an award. 28 U.S.C. § 2412(d)(1)(B); *Scarborough v. Principi*, 541 U.S. 401, 414 (2004). The burden then shifts to the government to demonstrate that its position was substantially justified or that special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A)); *Duncan v. Bisignano*, No. CV424-191, 2025 WL 2233981, at *1 (S.D. Ga. Aug. 6, 2025); *Stratton v. Bowen*, 827 F.2d 1447, 1450 (11th Cir. 1987) ("The government bears the burden of showing that its position was substantially justified").

Petitioner is a prevailing party because he has achieved a "material alteration of the legal relationship of the parties" and that alteration was "judicially sanctioned." *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.*, 532 U.S. 598, 604–05 (2001); *see also Walker v. City of Mesquite, Tex.*, 313 F.3d 246, 249 (5th Cir. 2002). In this case, over the government's opposition, the Court agreed with Petitioner's position that he was not subject to mandatory detention under 8 U.S.C. § 1225. ECF No. 6. The Court found that Petitioner is currently detained under 8 U.S.C. § 1226(a). *Id.* The Court cited the rationales in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). *Id.* Accordingly, the Court found ordered "that Respondents shall provide Petitioner with a bond hearing to determine if Petitioner may be released on bond under § 1226(a)(2) and the applicable regulations." *Id.*

Thus, this Court's December 29, 2025 Order conferred prevailing party status on Petitioner. *See e.g., W.M.V.C. v. Barr*, 926 F.3d 202, 208 n.2 (5th Cir. 2019) ("Because petitioners sought a remand to the BIA, our decision to grant such relief . . . entitles petitioners to prevailing party status."); *Watkins v. Mobile Housing Board*, 632 F.2d 565, 567 (5th Cir. Unit B 1980) (The prevailing party test is "whether he or she has received substantially the relief requested or has

been successful on the central issue"); *Robinson v. Kimbrough*, 652 F.2d 458, 465 (5th Cir. 1981) (Plaintiffs prevailed where their "lawsuit was a catalyst motivating defendants to provide the primary relief sought in a manner desired by litigation."); *Jean v. Nelson*, 863 F.2d 759, 765 (11th Cir. 1988), aff'd sub nom. *Comm'r, I.N.S. v. Jean*, 496 U.S. 154, 110 S. Ct. 2316 (1990) (plaintiffs prevailed where he district court ruled that INS had violated the APA by failing to engage in formal rulemaking before revising its policy of paroling applicants for asylum); *Townson v. Garland*, No. CV 1:22-00251-KD-N, 2024 WL 3363850, at *1 (S.D. Ala. July 10, 2024) (finding plaintiff was the prevailing party where district court set aside the ATF's denial of his federal firearms license as not authorized and remanding the matter back to the ATF for further proceedings consistent with the ruling).

III. The Government's Position Was Not Substantially Justified.

The government's position in this case was not "substantially justified." 28 U.S.C. § 2412(d)(1)(A). Congress placed a heavy burden of proof on the government to demonstrate that its position was substantially justified. H.R. Rep. No. 96-1418, 96th Cong., 2d Sess. 10, 13-14 (1980) ("[T]he strong deterrents to contesting government action require that the burden of proof rest with the government."). To meet this burden, the government must show that its position had a reasonable basis both in law and in fact. *Pierce, Secretary of HUD v. Underwood et al.*, 487 U.S. 552, 566 n.2 (1988); *Dantran v. U.S. Dept. of Labor*, 246 F.3d 36, 41 (1st Cir. 2001) ("To satisfy its burden, the government must justify not only its pre-litigation conduct but also its position throughout litigation.").

Under the EAJA, the "position of the United States" encompasses both "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." *Nkenglefac v. Garland*, 64 F.4th 251, 253 (5th Cir. 2023)[2] (finding government's position not substantially justified where the underlying BIA and IJ decisions contravened circuit precedent). Thus, "unreasonable agency action at any level entitles the litigant to EAJA fees," regardless of whether the government's litigation arguments were themselves reasonable. *Li v. Keisler*, 505 F.3d 913, 919 (9th Cir. 2007) (Because Congress intended for EAJA to be a deterrent for unreasonable agency conduct, regardless of whether the government's conduct in the federal court proceedings is substantially justified, "unreasonable agency action at any level entitles the litigant to EAJA fees."). If the government cannot show both positions were substantially justified, the Court must award fees.

In this case, both DHS's pre-litigation conduct and Respondents' litigation position were unreasonable. After this Court's decisions in cases such as *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), which rejected Respondents' reading of 8 U.S.C. § 1225(b)(2) and held that noncitizens in materially indistinguishable circumstances are detained under 8 U.S.C. § 1226(a) and entitled to an individualized bond hearing, DHS nonetheless continued to implement its new policy by classifying Petitioner and other similarly situated noncitizens as subject to mandatory detention under § 1225(b)(2). In other words, even after this Court had repeatedly held that Respondents' statutory interpretation was unlawful, DHS persisted in applying that same interpretation to new detainees, including Petitioner, and refused to afford him a § 1226(a) bond hearing before this action was filed.

The government's position here does not meet the test for substantial justification and would not have satisfied a reasonable person. On the agency side, DHS continued to detain

[2] Quoting *W.M.V.C.*, 926 F.3d at 209-10 (quoting *Baker v. Bowen*, 839 F.2d 1075, 1080 (5th Cir. 1988); *Herron v. Bowen*, 788 F.2d 1127, 1130 (5th Cir. 1986).

Petitioner under 8 U.S.C. § 1225(b)(2) pursuant to its new policy even after this Court had already rejected that interpretation in earlier cases and held that individuals in Petitioner's posture are detained under 8 U.S.C. § 1226(a) and entitled to bond hearings. On the litigation side, Respondents then advanced the same statutory theory in this case, without any material factual distinction or intervening authority, effectively asking this Court to disregard its own prior decisions and the rapidly growing body of decisions nationwide rejecting DHS's position. Indeed, the Court pointed out that "[t]he brevity of this order is appropriate given that the issue presented is exactly the same as the issue previously decided on numerous occasions by the Court and yet Respondents insist upon denying the relief that the Court has found is required." *Id.* at n. 1. That observation underscores that Respondents' litigation stance was not a good-faith attempt to navigate unsettled law, but rather a continued insistence on a statutory interpretation this Court had already found unlawful in dozens of prior decisions. Additionally, as the Court highlighted to previous decisions in this district, *J.A.M. v. Streeval*, and *P.R.S. v. Streeval*, that clearly found the government's new statutory interpretation is incorrect and unlawful. *See id.; see also Barco Mercado v. Francis*, -- F. Supp. 3d --, 2025 WL 3295903, at *4 (S.D.N.Y. Nov. 26, 2025) (rejecting Respondents' position and noting that "the overwhelming, lopsided majority [of district courts] have held that the law still means what it always has meant.") (footnotes omitted).

As another district court recently held, "this sweeping new policy, which the Department of Homeland Security (DHS), in conjunction with the Department of Justice (DOJ), [] contravene[es] [] decades of agency practice and robust due process protections hitherto afforded to such residents under 8 U.S.C. § 1226(a). *Cabrera-Cortes v. Knight*, No. 2:25-CV-01976, 2025 WL 3240971, at *1 (D. Nev. Nov. 20, 2025); *see Vashishth Tyagi v. Luis Soto et al.*, No. 26-CV-00962, 2026 WL 478184, at *1 (D.N.J. Feb. 20, 2026) ("[F]ederal courts have in near unanimity

similarly rejected respondents' position in approximately 300 cases to date, a number which climbs with every passing day.") citing *e.g., Demirel v. Fed. Det. Ctr. Phila.*, No. 25–cv–05488, 2025 WL 3218243, at *4 (E.D. Pa. Nov. 18, 2025) (noting "the law is clear" and that "of the 288 district court decisions to address the issue, 282 have determined that § 1226(a) applies or likely applies in situations similar to those presented here. Those decisions are plainly correct.").

Clearly, the government's position was not reasonable or substantially justified. Notably, several district courts have specifically stated as much and awarded similarly situated petitioners costs and fees under EAJA. For example, a district court in the Southern District of New York in a similar civil habeas action challenging the government's position on § 1225, found the petitioner was the prevailing party, concluded that government's position was not substantially justified, and awarded EAJA. *See Barco Mercado v. Francis*, 2025 WL 3295903, at *13 ("Respondents' position does not and has never had a reasonable basis in statutory text, structure, or history. Their position has been rejected with near unanimity in the overwhelming majority of cases across the country. Mr. Barco is entitled to reasonable fees and costs.); *see Yao v. Almodovar*, No. 25 CIV. 9982 (PAE), 2025 WL 3653433, at *12 (S.D.N.Y. Dec. 17, 2025) (finding that 1) habeas petitions challenging immigration detention are civil actions within the meaning of the EAJA, 2) Yao was the prevailing party, 3) "ICE's position, rejected this year in some 97% of the cases in which it was litigated, was not substantially justified" and 4) Yao was thus entitled to reasonable fees and costs); *Rivera Esperanza v. Francis*, No. 25-CV-8727, 2025 WL 3513983, at *9 (S.D.N.Y. Dec. 8, 2025) (finding petitioner was the prevailing party and the government's position was not substantially justified on the same issue); *Gregorio Sandoval Ortiz v. Arnott, et. al.*, No. 6:26-CV-3159-MDH, 2026 WL 787589, at *6 (W.D. Mo. Mar. 20, 2026) (finding "the position of the United States is not substantially justified. The manner in which the provisions have historically been

interpreted, legislative intent, statutory construction, and the plain text of the statutes all support that the United States is not substantially justified in its novel interpretation of § 1225.").

IV. No Special Circumstances That Would Make an Award Unjust.

Absent a showing that its position was substantially justified, the government can only avoid paying a prevailing party's attorneys' fees and expenses if it can show that special circumstances would make such an award unjust. 28 U.S.C. §2412(d)(1)(A). This provision "should be narrowly construed so as not to interfere with the congressional purpose" in passing statutes such as EAJA. *Martin v. Heckler*, 773 F.2d 1145, 1150 (11th Cir. 1985). Furthermore, "Defendants bear the burden of proving the existence of special circumstances." *Id.* There are no special circumstances in this case, however, that would make it unjust to award Petitioner attorneys' fees and costs incurred in this litigation. In fact, it would be unjust if Petitioner were not awarded attorneys' fees and costs necessarily incurred in order to protect and maintain his family unit, given that the litigation was a direct result of Respondents' unlawful detention, depriving him of his right to liberty and causing family separation and hardship.

V. Fees and Other Expenses to be Awarded to Petitioner.

EAJA provides for the recovery of fees and other expenses, as well as costs. 28 U.S.C. §§ 2412(a), (d)(1)(A). The amount to be awarded for work performed (*e.g.* attorneys' fees) is based upon "prevailing market rates for the kind and quality of the services furnished, except . . . attorney fees shall not be awarded in excess of $125 per hour unless the court determines that an increase in the cost of living or 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).

A reasonable attorney's fees award under 42 U.S.C. § 1988 is "properly calculated by multiplying the number of hours reasonably expended on the litigation times a reasonable hourly

rate." *Blum v. Stenson*, 465 U.S. 886, 888 (1984). "This 'lodestar' may then be adjusted for the results obtained." *Am. C.L. Union of Georgia v. Barnes*, 168 F.3d 423, 427 (11th Cir. 1999) (citation omitted). Although these cases arise under 42 U.S.C. § 1988, courts in this Circuit apply the same lodestar framework in EAJA cases, looking to prevailing market rates for the kind and quality of the services furnished. *See Jean v. Nelson*, 863 F.2d 759, 773 (11th Cir. 1988).

Courts look to the community for similar services by lawyers of reasonably comparable skills, experience, and reputation. *Norman v. Hous. Auth. of City of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988). "This inquiry will typically focus on affidavits or testimony of similarly situated practitioners" qualified to comment on the prevailing market rates. *Id.* "Satisfactory evidence of the reasonableness of the rate necessarily includes an affidavit of the attorney performing the work and information of rates actually billed and paid in similar lawsuits." *Hutchison v. Pkwy 750 Kennesaw, LLC*, No. 1:23-CV-02805-SCJ, 2025 WL 2889181, at *4 (N.D. Ga. Mar. 20, 2025) quoting *Ceres Env't Servs., Inc. v. Colonel McCrary Trucking, LLC*, 476 F. App'x 198, 202 (11th Cir. 2012); *Transcendent Mktg. & Dev., LLC v. C & C Prop. Invs., LLC*, No. 4:23-CV-318, 2025 WL 834768, at *2 (S.D. Ga. Mar. 17, 2025) (The rate an attorney ordinarily charges "is powerful, and perhaps the best, evidence of his market rate.") quoting *Dillard v. City of Greensboro*, 213 F.3d 1347, 1354 (11th Cir. 2000); *see also St. Claire v. Trauner, Cohen & Thomas, L.L.P.*, No. CIV.A. 107CV2082-ODE, 2008 WL 151542, at *1 (N.D. Ga. Jan. 11, 2008) ("Evidence of rates actually billed and paid in similar lawsuits, direct evidence of charges by lawyers under similar circumstances, or opinion evidence are examples of sufficient proof."). "In establishing a reasonable hourly rate, the district court may [also] rely on its own expertise ...." *Maner v. Linkan LLC*, 602 F. App'x 489, 493 (11th Cir. 2015); *see Moore v. Astrue*,

No. 5:10-CV-300 (HL), 2012 WL 2343667, at *2 (M.D. Ga. June 20, 2012) ("courts [ ] regularly allow for upward adjustments when the market rate exceeds the statutory cap").

A. The prevailing market rate is above the $125/hour statutory rate.

This action was filed in the Middle District of Georgia. Because there were no attorneys in the Middle District with experience in this type of federal immigration habeas litigation willing and able to accept the case, Petitioner retained Atlanta-based counsel. The relevant market for purposes of determining a reasonable hourly rate is therefore the Atlanta legal market within Georgia. Enclosed as Exhibits 2–5 are the declarations of Attorneys Karen Weinstock, Jessie Calmes, Eszter Bardi, and Marshall L. Cohen, which demonstrate that the prevailing market rate for complex federal immigration habeas litigation by highly experienced counsel in the Atlanta legal market is between [redacted] and [redacted] per hour and that there is a scarcity of attorneys qualified to handle this work.

Attorney Karen Weinstock attests that she has been licensed since 1999, has approximately 24 years of exclusive immigration law experience, devotes 100% of her practice to immigration and federal immigration litigation, and normally charges [redacted] per hour for high-level corporate immigration work, but that at least [redacted] per hour is warranted for specialized, urgent federal court immigration litigation such as this case. Ex. 2. Attorney Marshall L. Cohen has 35 years of immigration practice, including detention, removal defense, and related federal litigation, charges [redacted] per hour for ordinary immigration work and [redacted] per hour for comparable complex federal habeas litigation, and opines that a [redacted] hourly rate for Ms. Weinstock's specialized habeas work is reasonable and consistent with prevailing market rates for complex federal civil detention and constitutional cases. Ex. 5. Attorney Jessie Calmes has 10 years of immigration experience, charges [redacted] per hour for normal immigration matters and [redacted] per hour for similar

complex habeas litigation, and likewise states that an hourly rate of [redacted] for Ms. Weinstock is reasonable given her 24 years of immigration practice and rare depth of federal habeas expertise. Ex. 3. Attorney Eszter Bardi has 11 years of immigration experience, charges [redacted] per hour for standard immigration work and [redacted] per hour for comparable federal habeas cases, and similarly attests that a [redacted] hourly rate for Ms. Weinstock is reasonable and consistent with the rates commanded by attorneys handling complex immigration detention and constitutional litigation in Georgia. Ex. 4.

According to these attorneys, whose experience well qualifies them to comment on the prevailing market rates in the Atlanta area where they all practice immigration law, the prevailing market rate for an immigration attorney of over twenty (20) years' experience, such as Karen Weinstock, to perform complex civil detention and constitutional litigation is between $800 and [redacted] per hour. Petitioner emphasizes that while many attorneys may file such cases, there is a verified scarcity of counsel possessing the specific, high-level expertise required to litigate these matters effectively and expeditiously. As such, counsel's rates reflect her expertise and experience. Lead counsel was responsible for the core legal strategy, primary brief drafting, and oral argument, justifying the highest requested rate, while other attorneys who assisted with research and discrete drafting tasks are billed at rates commensurate with their respective experience and contributions. Therefore, with the prevailing market rate being significantly higher than the statutory amount of $125 per hour for the "kind and quality of service provided," the Court should award attorneys' fees billed at an hourly rate of [redacted] per hour for Ms. Weinstock's work in this case. Petitioner acknowledges that this rate is at the high end of the Atlanta market but submits that it is consistent with the evidentiary record and with EAJA's allowance of enhanced rates where the limited availability of qualified attorneys justifies a higher fee.

Therefore, with the prevailing market rate being significantly higher than the statutory amount of $125 per hour for the "kind and quality of service provided," the Court should award attorneys' fees billed at an hourly rate of [redacted] per hour for Ms. Weinstock's work in this case. Petitioner acknowledges that this rate is at the high end of the Atlanta market but submits that it is consistent with the evidentiary record and with EAJA's allowance of enhanced rates where the limited availability of qualified attorneys justifies a higher fee. *See* Petitioner's Memorandum in Support of this Motion.

In this district, judges have found prevailing market rates substantially higher than the statutory rate. *See e.g. Haddock v. Jasper County, Ga.*, 5:18-cv-292-MTT, Docs. 13-1, 14 (M.D. Ga. June 3, 2019) (approving FLSA settlement listing partner rates at $425 in 2019); *Patel v. Om Janie, LLC*, No. 7:22-CV-118, 2024 WL 150073, at *3 (M.D. Ga. Jan. 12, 2024) (finding "$390 hourly rate reasonable for Atlanta-based attorney with "experience, time practicing, and expertise"); *see also Zediker v. OrthoGeorgia*, 857 F. App'x 600, 609–10 (11th Cir. 2021) (determining reasonable hourly rate for attorneys' fees and costs under 31 U.S.C. § 3730(d)(1)) and upholding an hourly rate of $750 as reasonable in Georgia's middle district due to lead counsel's "many years of practice, his contributions to the field, and the acumen he brings....").

Judges in the Northern and Southern Districts of Georgia have found similar prevailing market rates in this district; much higher than the statutory rate. *See e.g., Ratchford v. Regions Financial Corp. et al.*, 4:18-cv-103-HLM, Docs. 27, 32 (N.D. Ga. Mar. 8, 2019) (approving FLSA settlement and motion for attorneys' fees for founding partner (Roy Barnes) at **$750 per hour**, junior partner at $350, and paralegal at $150); *Hutchison v. Pkwy 750 Kennesaw, LLC*, No. 1:23-CV-02805-SCJ, 2025 WL 2889181 *4-5 (N.D. Ga. Mar. 20, 2025) (concluding that **$435** was a reasonable hourly rate for attorney based on the prevailing Atlanta market for Fair Labor Standards

Act litigation); *S. Poverty L. Ctr. v. United States Dep't of Homeland Sec.*, No. 1:16-CV-2871-CAP, 2020 WL 13544121, at *4 (N.D. Ga. Mar. 10, 2020) (awarding hourly rate of **$525 per hour** for attorneys with 21 and 24 years of experience in 2020); *Spurlock v. Complete Cash Holdings, LLC*, 540 F. Supp. 3d 1201, 1210 (N.D. Ga. 2021) (awarding hourly rate of **$425** for partners); *Jackson v. P & K Rest. Enter., LLC*, No. 1:15-CV-753-MHC, 2018 WL 2271241, at *1 (N.D. Ga. Jan. 25, 2018), aff'd sub nom. *P & K Rest. Enter., LLC v. Jackson*, 758 F. App'x 844 (11th Cir. 2019) (awarding an hourly rate of **$400** for attorneys for work done between 2015 and 2018); *Georgia State Conference of the NAACP v. Kemp for Georgia*, No. 1:17-CV-1397-TCB, 2018 WL 2271244, at *1 (N.D. Ga. Apr. 11, 2018) (awarding a range of $225.00 to **$487.50** for legal work done in an election case during 2017-18.); *Alghadeer Bakery & Mkt., Inc. v. TimePayment Corp.*, No. 1:17-CV-1857-SCJ, 2018 WL 4846015, at *1 (N.D. Ga. May 16, 2018) (awarding a rate of **$425**/hour in 2017); *Transcendent Mktg. & Dev., LLC*, 2025 WL 834768, at *3 ("A review of the rates deemed reasonable in the Southern District of Georgia—particularly the Savannah market—reveals that a **$350** hourly rate is [. . .] within the range, of the prevailing market.").

By way of comparison in other markets, courts have also recognized enhanced EAJA rates in complex immigration-detention litigation. In *Nadarajah v. Holder*, 569 F.3d 906, 916–17 (9th Cir. 2009), the Ninth Circuit approved an enhanced EAJA rate of $500 for work performed between 2004 and 2006, finding that those rates were consistent with prevailing market rates for similar services by lawyers of comparable skill and experience. This confirms that, even under EAJA's cap, specialized immigration-habeas work by highly experienced counsel can warrant significantly higher hourly rates than the statutory baseline.[3] These decisions support the finding

[3] Courts in higher-cost markets have likewise approved hourly rates in the $800–$900 range for experienced partners handling complex federal litigation, and an enhanced EAJA rate of $650 in a recent immigration-detention case. *See e.g.*, *Knudsen v. Hightower Holdings, LLC*, No. 24-cv-0395-KKE, 2024 WL 3430994, at *3 (W.D. Wash. July 16, 2024); *Koonwaiyou v. Blinken*, 724 F. Supp. 3d 1222, 1236 (W.D. Wash. 2024); *Rahman v. Bondi*, No.

that prevailing market rates for complex federal litigation by experienced counsel in Georgia are far above EAJA's $125 cap. Against that backdrop, and in light of Ms. Weinstock's more than 24 years of specialized immigration and federal litigation experience, a requested rate of [redacted] per hour for this time-sensitive habeas matter is consistent with, and supported by, prevailing market rates.

B. Hours Expended

Included at Exhibit 6 is a record of the hours expended by each attorney that were reasonably and necessarily incurred in this litigation. Exhibit 6 itemizes the work performed, including drafting the habeas petition, analyzing Respondents' opposition and preparing this EAJA fee application. For Attorney Karen Weinstock, a fee of [redacted] per hour is requested, based on the special factors in the accompanying Memorandum of Law in Support, the declaration of Petitioner's attorney at Exhibit 2, the record of hours spent by each attorney on Petitioner's case at Exhibit 6, and the declaration from Petitioner confirming the representation agreement at Exhibit 1. **In sum, Petitioner requests an award in the amount of $9,800.00.**

Related, attorney fees are available under EAJA for hours spent on the fee application. *Commissioner, INS*, 496 U.S. at 163-166 (1990). All hours spent on this case are set out in the attached time records, and include hours spent preparing this Motion and accompanying Memorandum of Law. If additional hours are necessary in this case, they will be submitted at the conclusion of the litigation.

2:24-CV-02132-JHC-TLF, 2026 WL 323046, at *1 (W.D. Wash. Feb. 6, 2026); *Garcia v. Wamsley*, No. 2:25-CV-01980-TMC, 2026 WL 776151, at *8 (W.D. Wash. Mar. 19, 2026) (awarding $900/hour for very experienced lawyers, and between $650 and $550 per hour for other attorneys). Petitioner recognizes that these decisions arise from higher-cost West Coast markets and offers them only to show that a $1,000 hourly rate for top-tier complex federal litigation is consistent with rates approved nationally; the primary benchmark remains prevailing rates in the Atlanta and Middle District of Georgia markets.

VI. CONCLUSION

For the foregoing reasons, and based on the record and authorities cited above, Petitioner respectfully requests that the Court grant this Motion.

Petitioner respectfully requests that the Court award attorneys' fees and costs under 28 U.S.C. § 2412 in the total amount of $9,800.00, calculated at hourly rates of [redacted] for Attorney Karen Weinstock and [redacted] for Attorney Lauren Fascett—who has 20 years of immigration law and federal litigation experience—based on prevailing market rates and the special factors present in this case. Petitioner contends that these enhanced rates are warranted by counsel's specialized expertise in immigration and federal habeas litigation and the limited availability of similarly qualified counsel in this District. In the alternative, should the Court decline to award rates above EAJA's statutory cap, Petitioner requests that the Court at a minimum award fees at a cost-of-living–adjusted EAJA rate consistent with the CPI-based calculation set forth in the accompanying memorandum.

Respondents' position was not substantially justified and there are no special circumstances that would make the requested award unjust, for the reasons set forth above. The requested [redacted] hourly rate for Attorney Karen Weinstock is appropriate under 28 U.S.C. § 2412(d)(2)(A) because it reflects prevailing market rates for an attorney with her experience and specialized knowledge and is justified by the special factors present in this case, including her immigration-law and federal habeas expertise, the complexity of the statutory analysis, and the limited availability of similarly qualified counsel in this District.[4]

[4] As a final alternative, if the Court declines to award those market-based or special factor rates and declines to adjust the hourly rate based on the Court's assessment of the prevailing market rate, Petitioner requests that the Court award fees at a minimum at a cost-of-living-adjusted EAJA rate of $260.16 per hour, for a total fee award of $2,705.66.

Respectfully submitted this 30th day of March, 2026.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com

CERTIFICATE OF SERVICE

I certify that on March 30, 2026, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to Respondents' attorney(s) of record.

/s/ Karen Weinstock
Karen Weinstock
Attorney for Petitioner
Weinstock Immigration Lawyers, P.C.
1827 Independence Square
Atlanta, GA 30338
Phone: (770) 913-0800
Fax: (770) 913-0888
kweinstock@visa-pros.com