UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

N-S- Petitioner vs. Laura HERMOSILLO, Seattle Field Office Director, U.S. Immigration and Customs Enforcement (ICE), et al., Respondents	Case No. 2:26-cv-00161-BAT **MOTION AND MEMORANDUM FOR ATTORNEY FEES AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT, 28 U.S.C. § 2412(d)**

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

Certification. Per Local Rules, moving party counsel certifies that on March 5 and March 6, 2026, counsel conferred by telephone and email with opposing counsel Lawrence Van Daley. On March 6, 2026, opposing counsel indicated that the government expects to oppose the motion based on the enhanced hourly rate requested. Because the parties were unable to reach a resolution prior to the Court's filing deadline, Petitioner files this contested motion.

MOTION

The court should award fees at the enhanced rate of $550.00 per hour for 10.4 hours worked by lead counsel Cole Enabnit, and $125.00 per hour for 1.3 hours worked by paralegal staff, for a total fee award of $5,882.50.

In the alternative, fees at the adjusted statutory rate of $251.84 per hour for work done in 2026 should be awarded based on 10.4 attorney hours, for a total of $2,619.14 plus $162.50 in paralegal fees for a total of $2,781.64.

The court should also award $254.00 for costs (filing and pro hac vice fees). Part of the requested fee represents time spent preparing this application for EAJA fees, which is also reimbursable. *Commissioner INS v. Jean*, 496 U.S. 154 (1990).

//

//

//

//

//

//

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

MEMORANDUM

Petitioner seeks attorney fees and costs under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d).

I. SUMMARY OF FEES AND COSTS SOUGHT. If a plaintiff is entitled to an award, a court sets reasonable attorney fees by the lodestar calculation, which multiplies the reasonable hourly rate by the reasonable number of hours expended.

Hensley v. Eckerhart, 461 U.S. 424, 433 (1983). Under EAJA, attorney's fees are authorized at the statutory rate of $125 per hour, which adjusted for inflation, 28 U.S.C. § 2412(d)(2)(A), for 2026 is $251.84.

Table 1: Summary of fees and costs requested (lodestar method)

- Total attorney hours: 10.4
- Total paralegal hours: 1.3
- Ninth Circuit adjusted statutory hourly rate: $251.84
- Enhanced hourly rate requested: $550.00
- Paralegal rate requested: $125.00
- Fees at enhanced hourly rate + paralegal rate: $5,882.50
- Costs sought in addition: $254.00
- **Total Request: $6,136.50**

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

II. THIS MOTION IS TIMELY FILED. The Court entered an Order Granting Petition and Directing Release on February 6, 2026, which explicitly mandated: "Any motion for attorney fees and costs shall be filed no later than March 6, 2026." This motion is filed on March 6, 2026, and is therefore timely.

III. PETITIONER IS THE PREVAILING PARTY. On February 6, 2026, the Court granted the petition for a writ of habeas corpus, ordered Petitioner's immediate release, and permanently enjoined his re-detention absent written notice and a hearing. For this reason, petitioner is the prevailing party under 28 U.S.C. § 2412(d)(1)(A).

IV. RESPONDENTS WERE NOT SUBSTANTIALLY JUSTIFIED. A prevailing party is entitled to attorneys' fees unless defendants can show that the government's pre-litigation conduct and its litigation positions were substantially justified.

Corbin v. Apfel, 149 F.3d 1051, 1052 (9th Cir. 1998). "Substantial justification" means the government's position must have a reasonable basis in law and fact. *Id.* The government cannot meet that burden here.

A. Respondent's pre-litigation position was not substantially justified. Respondents utilized a ruse to detain Petitioner months after an alleged "violation," claiming he was an immediate danger and flight risk. However, as this Court noted, the government relied on

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

"alleged violations [that] occurred in February 2025" and resulted only in "increased monitoring, not redetention." Furthermore, the government admitted it did not actually know whether Petitioner was absent from a home visit or simply missed a phone call. Re-detaining a compliant participant based on stale, unverified information lacks a reasonable basis in fact.

B. Respondent's litigation position was not substantially justified. In litigation, Respondents argued Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b). This position was legally unreasonable because Respondents' own release paperwork—the Order of Release on Recognizance (OREC)—explicitly stated he was being released under the discretionary framework of 8 U.S.C. § 1226. Defending a mandatory detention classification that directly contradicts the agency's own charging documents is not substantially justified.

V. NO SPECIAL CIRCUMSTANCES MAKE AN AWARD UNJUST. The government has the burden of proving the existence of special circumstances that would make a fee unjust. 28 U.S.C. § 2412(d)(1)(A). There is nothing here unfair or unusual to justify the denial of fees.

VI. NET WORTH REQUIREMENTS AND ASSIGNMENT OF FEES. Petitioner's net worth is less than $2 million. An assignment of fees to petitioner's counsel is included as part of his declaration of net worth.

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

VII. ENHANCED FEES ARE JUSTIFIED. EAJA allows a fee award in excess of the adjusted statutory rate when "a special factor such as the limited ability of qualified attorneys for the proceedings involved justifies a higher fee." 28 U.S.C. § 2412(d)(2)(A)(ii).

A. Attorney has distinctive knowledge and skills.

Immigration cases require specialized knowledge and skill. *See, e.g., Nadarajah v. Holder*, 569 F.3d 906, 914 (9th Cir. 2009). Counsel in this case possesses distinctive knowledge and 11 years of experience in complex immigration matters, specifically regarding the intersection of constitutional due process and the Immigration and Nationality Act.

B. Skills necessary for litigation. Specialized skills were necessary to litigate this case. Petitioner was lured into custody and detained on a Friday. Counsel had to immediately decipher complex jurisdictional provisions under the INA, distinguish between § 1225 and § 1226 detention authorities, and rapidly draft a federal habeas petition before Petitioner was transferred out of the jurisdiction.

C. Skills not available elsewhere at statutory rate. There are comparatively few attorneys in the Pacific Northwest willing and able to undertake emergency federal habeas litigation for detained noncitizens. Petitioner's counsel is unaware of any qualified practitioner who would accept a complex immigration habeas case at the adjusted statutory rate of $251.84 per hour and who would do so expeditiously.

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

VIII. FEES OF $550.00 PER HOUR ARE REASONABLE.

Once circumstances justifying an increased fee are shown, attorneys are to be paid at prevailing market rates. *Pierce v. Underwood*, 487 U.S. at 571-72.

To determine a reasonable hourly rate, courts look to the prevailing market rates in the relevant community and rate determinations in other cases in the district. *See Koonwaiyou v. Blinken*, Case 3:21-cv-05474-DGE, Dkt. No. 51 (W.D. Wash. Mar. 20, 2024). In *Koonwaiyou*, the Western District of Washington explicitly rejected the government's attempt to use out-of-district fee matrices, instead relying on expert declarations regarding the local market to award $850 per hour for lead counsel in a complex immigration case, and $450 per hour for an associate.

Furthermore, applying the methodology outlined in the Oregon State Bar 2022 Economic Survey confirms the reasonableness of this request. For an attorney with 11 years of experience practicing Business/Corporate Litigation (the closest analog to federal immigration litigation) in Downtown Portland, the mean rate in 2021 was $474.00. Adjusted for 16% inflation between 2021 and 2024, the presumptive market mean is $549.84.

Counsel's requested rate of $550.00 per hour is well below the $850.00 rate recently approved by this District for complex immigration litigation, and aligns perfectly with inflation-adjusted local market surveys.

IX. COSTS REQUESTED ARE REASONABLE. Costs sought in this case are $5.00 for the habeas filing fee and $249.00 for the Pro Hac Vice admission fee, for a total of $254.00.

Cole Enabnit
Portland Immigration Law LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
(503) 749-7700

X. CONCLUSION. For the above reasons, petitioner's motion should be granted. The court should order that payment be made directly to petitioner's counsel according to the assignment on file with the court.

DATED: March 6, 2026

s/ Inna Scott
Inna Scott, WSBA No. 46864
iscott@globallawadvocates.com

Global Law Advocates, PLLC
655 S Orcas St, Ste 210
Seattle, WA 98108-2648
United States
(206) 774-8758

s/ Cole Enabnit
Cole W. Enabnit
cole@pdximmigration.com

Portland Immigration Law, LLC
520 SW 6th Ave, Suite 610
Portland, OR 97204
United States
(503) 749-7700

Counsel for Petitioner