UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:26-cv-355

ALEX ARMANDO MARTINEZ-ORELLANA,
Petitioner,

v.

GEORGE VALDEZ,[1] *et al.*,

Respondents.

MOTION FOR FEES PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT

On February 13, 2026, this Court granted Petitioner Alex Armando Martinez-Orellana's petition for a writ of habeas corpus, ordering his immediate release from immigration custody. ECF No. 14. In the order, the Court granted Mr. Martinez-Orellana leave to file a motion for attorney's fees pursuant to the Equal Access to Justice Act by March 2, 2026. *Id.* In light of Mr. Martinez-Orellana's motion to enforce, *see* ECF No. 19, he received extensions of this deadline until April 8, 2026. *See* ECF No. 25.

Undersigned counsel now moves for fees under Fed. R. Civ. P. 54, L. Civ. R. 54.3, and the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412. On February 25, 2026, Julia Prochazka, counsel for Respondents, indicated that the government opposes this motion.

RELEVANT FACTS

Mr. Martinez-Orellana entered the United States in 2008 without inspection and has lived in Colorado with his family. ECF No. 1-2. He has no criminal history and strong community ties,

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[1] Acting Field Office Director George Valdez, DHS Secretary Markwayne Mullin, and Acting Attorney General Todd Blanche should be substituted for their predecessors. Fed. R. Civ. P. 25(d)

including two U.S. citizen children, one of whom is being treated for a medical issue. ECF No. 1-3. On December 15, 2025, Wyoming Highway Patrol stopped Mr. Martinez-Orellana and called Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) officers, who interviewed Mr. Martinez-Orellana and transferred him to Laramie County Detention Center. ECF No. 1-2. ICE ERO officers processed Mr. Martinez-Orellana at the facility, logging all of his property, including credit cards, identification cards, and $950 in cash. ECF Nos. 19-1, 26-1. On December 16, 2026, ICE transferred him to the detention facility in Aurora, Colorado, and placed him in removal proceedings before an immigration judge. ECF Nos. 1-6, 21-1.

Through counsel, Mr. Martinez-Orellana sought a custody determination hearing before the immigration court to challenge his continued immigration detention. ECF No. 1-7. Although the Department of Homeland Security (DHS) filed some documents in the custody proceedings before the immigration judge, it filed others only in the separate removal proceedings, including the administrative arrest warrant and ICE's initial custody determination. ECF No. 1-4, 1-5. An immigration judge is not permitted to consider evidence filed in custody proceedings in a removal hearing and vice versa. 8 C.F.R. § 1003.19(d).

At a custody hearing on January 15, 2026, ICE maintained the position that Mr. Martinez-Orellana was not amenable to bond and that the class action order in *Maldonado Bautista* was not binding on Mr. Martinez-Orellana. ECF No. 1-3. The immigration judge requested supplemental briefing. But prior to completion of that briefing, the immigration judge issued a written decision dismissing the custody redetermination request for lack of jurisdiction. ECF No. 1-8. The immigration judge explained that she lacked jurisdiction "to redetermine bond, namely because the *Maldonado Bautista* order specifically finds the DHS's policy not to issue bond determinations is unlawful, and because in this case the DHS has not yet determined bond by issuing a Form I-

286, such that there is no bond for this Court to redetermine." *See* ECF No. 1-3 at 1. The immigration judge issued an alternative order setting a bond amount of $3,000 "should this Court be ordered by writ of habeas corpus to find it has jurisdiction to determine bond where the DHS has refused to make an initial determination, or should there be a clear change in law that clearly binds this Court to find it has jurisdiction[.]" *Id.* at 2.

Mr. Martinez-Orellana, through undersigned counsel, filed a petition for a writ of habeas corpus on January 29, 2026, arguing that Respondents acted unlawfully in failing to comply with applicable regulations regarding providing custody determinations to those in immigration custody and also challenging Respondents' mandatory detention policy under 8 U.S.C. § 1225(b)(2)(A). ECF No. 1. In response to the Court's Order to Show Cause, Respondents only responded to the portion of the complaint relating to the basis of detention and did not address the "initial custody determination" facts or counts at all. ECF No. 10. In reply, Mr. Martinez-Orellana addressed the novel issue in this case involving the immigration judge's "no initial custody determination" finding. ECF No. 13.

This Court granted the petition, ordering Mr. Martinez-Orellana's immediate release. ECF No. 14. Recognizing the material similarities between this case and others, including *Morales Lopez v. Baltazar*, 2026 WL 25161 (D. Colo. Jan. 5, 2026), and *Garcia Abanil v. Baltazar*, -- F. Supp. 3d --, 2026 WL 100587 (D. Colo. Jan. 14, 2026), the Court saw "no basis to depart from the extensive reasoning outlined in its published decision in *Garcia Abanil*." *Id.* at 3-5, 7. The Court also addressed the separate "troubling issue" presented in this case. *Id.* Specifically, the Court noted that ICE *had* conducted an initial custody determination in this case, that ICE refused to issue that form to the immigration judge at the custody redetermination hearing, and that the immigration judge subsequently found no jurisdiction to redetermine bond on the basis of ICE's

failure to submit an initial custody determination notwithstanding Mr. Martinez-Orellana's detained status. *Id.* at 7-8. Construing these actions as "patently absurd and undertaken in bad faith," the Court found that ICE had "clearly already initially determined that Martinez-Orellana was subject to detention." *Id.* at 8; *see id.* at 8 n.1 (discussing the Form I-286 and further asserting that "the form is not the only evidence on which an IJ should be able to reasonably rely in evaluating whether DHS has made an initial custody determination. An immigrant's detention status should generally suffice in itself. Here, Martinez-Orellana was clearly detained. So why else would he be seeking a custody redetermination?"). The Court continued, asserting that "[n]o reasonable person could have possibly harbored any doubt that Respondents had already previously made an initial determination that he was subject to detention." *Id.* at 9. Thus, the Court concluded, Respondents deprived Mr. Martinez-Orellana of his due process rights by arguing and concluding otherwise. *Id.*

The Court also acknowledged that it was "telling[]" that Respondents did "not even try to defend the IJ's finding of no jurisdiction based on this failure-to-ender-Form I-286 issue." *Id.* "On account of Respondents' failure to respond—let alone develop in any meaningful manner an argument to the contrary—to the Form issue raised by petitioner, the Court deems that portion of the Petition to be confessed." *Id.* at 10 (citations omitted). The Court ordered immediate release as "the only form of relief it can grant that will meaningfully and effectively cure the Government's flagrant deprivation of Martinez-Orellana's constitutional rights." *Id.* (citations omitted).

In beginning to prepare this motion, Mr. Martinez-Orellana revealed to his immigration counsel that ICE only returned $12 of the $950 in cash that he had when he was first apprehended and that was recorded as part of the property placed in a property bag when he was arrested. *See* ECF No. 19, 19-1. Mr. Martinez-Orellana explained that he noticed the money was missing from

the plastic bag containing his property when he arrived in Aurora, but the processing officer "just shrugged." ECF No. 19-1 at 1. Mr. Martinez-Orellana heard from other detainees that their cash was added to their accounts, so when Mr. Martinez-Orellana confirmed that the missing money was not added to his account, he filed a complaint through the facility's complaint system. *Id.* In response, ICE informed him that "they had the 950 dollars, but they were keeping it because in case I was deported, they were going to use that money for my plane ticket back to my country of origin." *Id.* The money was not returned to him when he was released and Respondents have disavowed any knowledge of what property was logged when he was first processed by ICE or what was recorded in the complaint system. *See* ECF No. 21, 21-1. The motion to enforce is fully briefed.

ARGUMENT

I. Legal standard for EAJA applications.

EAJA provides that a court shall award fees and expenses to a prevailing party (who is a nongovernmental party and whose net worth does not exceed two million dollars) in a civil action against the United States unless the government's position was substantially justified or special circumstances make an award unjust. 28 U.S.C. § 2412(d)(1)(A); *Al-Maleki v. Holder*, 558 F.3d 1200, 1204 (10th Cir. 2009); *Hackett v. Barnhardt*, 475 F.3d 1166, 1172 (10th Cir. 2007); *see Daley v. Ceja*, 158 F.4th 1152 (10th Cir. 2025) (holding that EAJA authorizes fees in a habeas corpus proceeding challenging immigration detention). A party prevails when a court order materially alters the legal relationship between the parties. *Buckhannon Bd. & Care Home, Inc. v. W. Va. Dept of Health & Human Res.*, 532 U.S. 598, 604 (2001); *Xlear, Inc. v. Focus Nutrition, LLC*, 893 F.3d 1227, 1236-37 (10th Cir. 2018) (quoting *Buckhannon*); *Biodiversity Conservation Alliance v. Stem*, 19 F.3d 1226 (10th Cir. 2008). "[O]nce an EAJA application is filed, the government is on

notice, based on the plain language of the statute, that it must justify both its position in any underlying administrative proceeding and its position in any subsequent district court litigation." *Hackett*, 475 F.3d at 1170; *Pierce v. Underwood*, 487 U.S. 552, 565 (1988). The government must justify its position to a degree that could satisfy a reasonable person. *Pierce*, 487 U.S. at 565.

II. Mr. Martinez-Orellana is statutorily eligible to recover attorneys' fees and costs.

Mr. Martinez-Orellana is a nongovernmental party whose net worth does not exceed two million dollars. *See* Alex Martinez-Orellana Affidavit, Exhibit 1. As discussed below he is the prevailing party in this litigation. *See* ECF No. 14; *Buckhannon*, 532 U.S. at 603; *Biodiversity Conservation Alliance*, 519 F.3d at 1230. Mr. Martinez-Orellana seeks to recover the fees he has paid in this case as well as additional fees incurred by his attorneys on this case. *Manning v. Astrue*, 510 F.3d 1246 (10th Cir. 2007).

A. Mr. Martinez-Orellana is a prevailing party.

Mr. Martinez-Orellana is indisputably the prevailing party in this case. By granting Mr. Martinez-Orellana's habeas petition, this Court provided "the benefit" that Mr. Martinez-Orellana "sought in bringing the suit." *Texas State Tchrs. Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 789 (1989). Specifically, Mr. Martinez-Orellana's release pursuant to this Court's order was a "material alteration of the legal relationship of the parties" that was caused by a "judicial imprimatur on the change." *Buckhannon*, 532 U.S. at 603-05.

Notably, Mr. Martinez-Orellana's motion to enforce remains pending and that issue remains unresolved. However, the Court's order granting habeas is the material alteration of the

legal relationship relevant for EAJA prevailing party purposes. Thus, all hours expended on the litigation should be considered as part of this motion.[2]

B. The government's pre-litigation and litigation position was not substantially justified.

The government cannot meet its burden and demonstrate that it was substantially justified in this litigation. *Pierce v. Underwood*, 487 U.S. 552, 566 (1988); *Al-Maleki*, 558 F.3d at 1207 (noting that the government "bears the burden of establishing its position [as] justified to a degree that could satisfy a reasonable person"). The Court must "look to the litigating position" of the government "before the district court and the agency's prelitigation conduct, its action or inaction, [and] the position that gave rise to the litigation in the district court." *Madrid v. Astrue*, 243 F. App'x 387, 390 (10th Cir. 2007) (citing *Cummings v. Sullivan*, 950 F.2d 492, 496 (7th Cir. 1991)); *accord Hackett v. Barnhart*, 475 F.3d 1166, 1170 (10th Cir. 2007). The government's prelitigation actions, including those of both of the relevant respondent agencies, and its litigation position "are both relevant to the inquiry and must be reasonable in fact and law." *Al-Maleki*, 58 F.3d at 1207 (citation omitted); *Role Models America, Inc., v. Brownlee*, 353 F.3d 962, 967 (D.C. Cir. 2004) ("The government . . . must demonstrate the reasonableness not only of its litigation position, but also of the *agency's* actions") (citation omitted); *accord Pierce*, 487 U.S. at 566 n.2. Where an agency violates its own regulations in adjudicating a case, the Court may find a per se lack of substantial justification. *Mendenhall v. National Transp. Safety Bd.*, 92 F.3d 871, 874-76 (9th Cir. 1996); *see also Role Models*, 353 F.3d at 967.

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[2] Alternatively, Mr. Martinez-Orellana requests the Court hold ruling on this motion until a ruling on the motion to enforce is issued. Should Mr. Martinez-Orellana prevail in that motion, the hours should be included in the fee calculation.

Critically, the burden to show substantial justification is on the government and Mr. Martinez-Orellana need only allege "a bare ten-word 'allegation' stating that the government's position was not substantially justified." *Hackett*, 475 F.3d at 1170. Respondents cannot meet their burden here. First, the government's pre-litigation was not substantially justified. As this Court noted, ICE completed an initial custody determination, processing Mr. Martinez-Orellana for detention under INA § 236, 8 U.S.C. § 1226. ECF No. 1-5, 14 at 8. But once Mr. Martinez-Orellana filed a request for a custody redetermination, ICE maintained that Mr. Martinez-Orellana was subject to detention under 8 U.S.C. § 1225(b)(2) and it refused to file that form in the custody proceedings in immigration court. ECF No. 1-3. This was not only unreasonable, but, as the Court noted, it was also "patently absurd and undertaken in bad faith." ECF No. 14 at 9; *Comm., INS v. Jean*, 496 U.S. 154, 160 (1990) ("The single finding that the Government's position lacks substantial justification, like the determination that a claimant is a 'prevailing party,' thus operates as a one-time threshold for fee eligibility."); *Anthony v. Sullivan*, 982 F.2d 586, 589 (D.C. Cir. 1993) ("[O]nce a court determines that the government's position on the merits of the litigation is not substantially justified, it may not revisit that question as to any component of the dispute."). Respondents provided no defense to this action, thereby admitting it. ECF No. 14 at 10 (citing *Ihor D. v. Noem*, 2026 WL 146507, at *1 (D. Minn. Jan. 20, 2026); *United State v. Hunter*, 739 F.3d 492, 495 (10th Cir. 2013)). This failure alone demonstrates that defense of the government's action was not substantially justified.

Moreover, the government's position insisting that Mr. Martinez-Orellana was detained under 8 U.S.C. § 1225(b)(2) was not substantially justified. While Respondents may of course retain a litigation position and preserve their position for appeal, their actions in this case demonstrate their intent to continue to manipulate the system in order to keep noncitizens detained

longer under new theories of detention. Notably, Respondents took every opportunity in this case to avoid compliance with a nationwide class action declaratory judgment vacating ICE's policy to detain individuals like Mr. Martinez-Orellana under § 1225(b)(2) and requiring a bond hearing for individuals like Mr. Martinez-Orellana. And these actions were taken against the backdrop of literally thousands of cases across the country disagreeing with Respondents' legal position. *Pierce*, 487 U.S. at 569 (recognizing that "a string of losses can be indicative" of a substantially unjustified position).

While the Court need proceed no further in considering substantial justification, Respondents' litigation position was also not substantially justified. Respondents acknowledged the large number of cases contrary to their position but failed to engage with any of the analysis or reasoning provided in the cases issued by this Court. ECF No. 10. Respondents also entirely ignored and failed to defend against the counts and issues relating to the I-286 and initial custody determination. *Tchemkou v. Mukasey*, 517 F.3d 506, 510 (7th Cir. 2008) ("Having failed to provide any support for this argument, the Government also has failed to show that its position was substantially justified."). As for the motion to enforce, Respondents failed to address all of the allegations in the motion and retain or obtain all of the relevant property records, instead hiding behind the facts that a state agency pulled Mr. Martinez-Orellana over (even though ICE processed him for detention) and that the detention facility is run by contractors (including the Warden, who is a party to this action). Accordingly, this Court should conclude that Respondents' prelitigation and litigation positions were not substantially justified.

C. There are no special circumstances rendering a fee unjust.

Finally, there are no special circumstances that would render a fee unjust. 28 U.S.C. § 2412(d)(1)(A). Special circumstances include the government advancing in good faith novel but

credible extensions and interpretations of law. H.R. Rep. No. 1418 at 11, 86th Cong., 1980 U.S. C.C.A.N. 4984, 1990. This provision must be narrowly construed so as not to interfere or defeat Congress' purpose in passing EAJA. *E.g.*, *Martin v. Heckler*, 773 F.2d 1145, 1150 (11th Cir. 1985). Much like the substantial justification inquiry, the burden of proving the special circumstances rests with the government. *Id.* Respondents have repeatedly taken steps to keep Mr. Martinez-Orellana in custody, by hiding behind regulations regarding an initial custody determination—and refusing to defend such actions—while also refusing to acknowledge a groundswell of cases in this district finding their policy unlawful. Simply, no special circumstances exist here.

III. Mr. Martinez-Orellana's fee request is reasonable.

After a prevailing party demonstrates eligibility, the district court must determine what fee is reasonable. *Commissioner, INS v. Jean*, 496 U.S. 154 (1990). EAJA fees are typically "calculated under the lodestar method by examining the attorney's reasonable hours expended and her reasonably hourly rate." *Astrue v. Ratliff*, 560 U.S. 586, 602 (2010) (Sotomayor, J., concurring) (recognizing that EAJA uses a lodestar calculation while Social Security Act fees are limited to a percentage of benefits awarded); *see also Jean*, 496 U.S. at 161; *Robinson v. City of Edmond*, 160 F.3d 1275, 1281 (10th Cir. 1998). The hourly rate is typically "based upon prevailing market rates for the kind and quality of the services furnished." *Pierce*, 487 U.S. at 571; *Norman v. Hous. Auth. Of City of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988) (noting that the "inquiry will typically focus on affidavits or testimony of similarly situated practitioners" qualified to comment on prevailing market rates). While the EAJA statute provides a standard $125-per-hour rate, 28 U.S.C. § 2412(d)(2)(A)(ii), fees can be awarded in excess of the statutory amount if "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." *Pierce*, 487 U.S. at 571.

A. This case involved specialized skill justifying enhanced fees.

The limited-availability exception to the statutory rate refers to "attorneys 'qualified for the proceedings' in some specialized sense, rather than just in their general legal competence." *Id.* at 572. As the Supreme Court explained, the special factor "refers to attorneys having some distinctive knowledge or specialized skill needful for the litigation in question—as opposed to an extraordinary level of the general lawyerly knowledge and ability useful in all litigation." *Id.* A necessary specialization in a particular area of law—such as immigration—can warrant enhanced fees. *Id.*; *see, e.g.*, *Nadarajah v. Holder*, 569 F.3d 906, 914 (9th Cir. 2009) (awarding enhanced fees in a case that "did not involve merely a 'straightforward application' of the rules of immigration law and appellate practice" and where the court "took the fairly unusual step of ordering the immediate release" of the petitioner); *see also Muhur v. Ashcroft*, 382 F.3d 653, 656 (7th Cir. 2004) (recognizing the complexity of the "esoteric nooks and crannies of immigration law, in which such expertise is needed to give the alien a fair shot at prevailing"). This Court has also recognized that "knowledgeable attorneys are limited and that immigration issues are often complex and novel." *Barber v. Weber*, 2005 WL 1846985, at *2 (D. Colo. Aug. 1, 2005).

This case required a specialized skill, namely expertise in both immigration law and procedure and federal habeas litigation. Immigration detention litigation in federal court requires mastery of a complex statutory and regulatory framework under the Immigration and Nationality Act, familiarity with rapidly developing detention jurisprudence, and the ability to litigate emergency matters against DHS and EOIR on compressed timelines. *See* Brian Green Decl., Exhibit 3; Katherine Melloy Goettel Decl., Exhibit 6. But this case also involved "particular, esoteric nooks and crannies of immigration law" that were critical to obtaining the ultimate relief of immediate release, a remedy unlike those in similar cases in this district. *Muhur*, 382 F.3d at

656; *Nadarajah*, 569 F.3d at 914-15; *see Abanil v. Baltazar*, -- F. Supp. 3d --, 2026 WL 100587 (D. Colo. Jan. 14, 2026). Ms. Dawgert was on the forefront of litigating the issue that has taken hold of many court dockets over the last several months[3] and involves the statutory interpretation of a rarely-before used statute. *See* Dawgert Decl., Exhibit 2. Critical to this case, the Court granted Mr. Martinez-Orellana's immediate release, not just a bond hearing conducted under 8 U.S.C. § 1226(a). And here, specific knowledge of immigration regulations and procedures was needed to understand the extent of Respondents' egregious due process violations. ECF No. 14. Indeed, the government did not even address the reasons necessitating immediate release in this case. *See* ECF No. 10. Ms. Dawgert, who spent fifteen years defending ICE as a client agency and more than one year overseeing immigration policies, regulations, and litigation for the Department of Justice, has a specialized insight that allowed her to understand the unique nature of the specific claims in this case relating to whether ICE provided an "initial custody determination." *See* ECF No. 13 at 3-5. Indeed, after Ms. Dawgert's reply pointing out that this case is not like the majority of the cases addressing the §1225/1226 issue, the Court agreed that the due process violations in this case were egregious enough—perhaps even rising to the level of bad faith—to warrant immediate release. ECF No. 14. Ultimately, Ms. Dawgert and Ms. Vuong possess distinctive qualifications directly relevant to this litigation, including extensive federal immigration litigation experience and specialized detention habeas expertise. *See* Aaron Hall Decl., Exhibit 4; Brian Green Decl., Exhibit 3. Accordingly, an enhanced rate is warranted for attorneys Jessica Dawgert and Sarah Vuong in this case.

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[3] *Compare Bautista v. Santacruz*, -- F. Supp. 3d --, 2026 WL 468284, at *4 (C.D. Cal. Feb. 18, 2026) (noting more than 400 habeas cases granted between December 18, 2025 and February 18, 2026 involving a challenge to detention under 8 U.S.C. § 1225(b)(2) and related to the class action in the Central District of California), *with Daley*, 158 F.4th at 1164 (noting that court statistics showed that 448 immigration habeas petitions were filed in calendar year 2024).

B. The requested rate of $600 per hour is reasonable.

Mr. Martinez-Orellana has also demonstrated that $600 per hour is a reasonable prevailing market rate for an expert in immigration habeas litigation. A similarly situated immigration attorney who, like Mr. Martinez-Orellana's counsel, practices exclusively federal litigation charges $650 per hour, which he believes is below market. Brian Green Decl., Exhibit 3; *see Prison Legal News v. Schwarzenegger*, 608 F.3d 446, 455 (9th Cir. 2010) (considering a declaration discussing hourly rates charged by attorneys in the relevant market in considering fees under 42 U.S.C. § 1988); *accord Plyler v. Evatt*, 902 F.2d 273, 278 (4th Cir. 1990). Other courts have found hourly rates over $800 reasonable for civil litigation attorneys with similar years of experience. *See e.g. Knudsen v. Hightower Holdings*, LLC, No. 24-cv-0395-KKE, 2024 WL 3430994, at *3 (W.D. Wash. July 16, 2024) (finding reasonable hourly rates of $850 for two attorneys with 32 and 20 years of experience; $755 for attorney with 16 years of experience; $685 for attorney with nine years of experience; and $625 for attorney with six years of experience); *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 at $750 per hour, junior partner at $350, and paralegal at $150). Moreover, the Ninth Circuit recognized that a $500 per-hour rate was reasonable more than sixteen years ago for an immigration litigator with approximately two decades of experience in immigration litigation relating to immigration detention. *Nadarajah*, 569 F.3d at 917. A rate of $600 per hour is within this range of prevailing market rates.

Other qualified counsel were not available in this case at the statutory rate provided under EAJA, even if adjusted for inflation. *Nadarajah*, 569 F.3d at 915; *Atlantic Fish Spotters Ass'n v. Daley*, 205 F. 3d 488, 492-93 (1st Cir. 2000); *see* Brian Green Decl., Exhibit 3; Sarah Wilson Decl., Exhibit 5; Aaron Hall Decl., Exhibit 4. The majority of the habeas litigation surrounding the new

immigration detention policies is conducted by a relatively small number of attorneys with expertise, a group that includes Ms. Dawgert. *See* Exhibits 2-5. Mr. Martinez-Orellana's attorney before the immigration court did not have the specialized knowledge to present the necessary arguments in this case and contracted with Ms. Dawgert's firm to provide the specialized representation. Dawgert Decl., Exhibit 2. Other specialists in immigration detention who practice in the District of Colorado are not taking on new cases at this time. Brian Green Decl., Exhibit 3; Katherine Melloy Goettel Decl., Exhibit 6. Accordingly, this Court should grant Mr. Martinez-Orellana's request for a fee enhancement.

C. The number of hours reported is reasonable and justified.

Considering the records in this case, the Court should award fees at this enhanced rate for 48.1 hours. *See* Dawgert Decl., Exhibit 2; *see also Hensley v. Eckerhart*, 461 U.S. 424, 437, n.12 (1983) (noting that counsel "is not required to record in great detail how each minute of his time was expended. But at least counsel should identify the general subject matter of his time expenditures."); *Castaneda-Castillo v. Holder*, 723 F.3d 48, 79 (1st Cir. 2013) ("Records that include the different tasks each attorney performed, the total number of hours billed, the billing rate for those hours, the date on which each tasks was performed, and the amount of time spent on each task generally fulfill [the EAJA] requirement."). The attached records demonstrate that Ms. Dawgert spent a reasonable amount of time researching, preparing, and filing the petition, reply brief, and motion to enforce in this case. The attorneys also spent a reasonable amount of time communicating with the client (through immigration counsel to reduce time and translation costs), and preparing this motion. Beyond Mr. Dawgert's hours, ALLC Partner Sarah Vuong, who also has nearly two decades of experience in immigration litigation in federal court, spent a reasonable and minimal amount of time reviewing the pleadings in this case before filing. Vuong Decl.,

Exhibit 7; *see Anchondo v. Anderson, Crenshaw & Assoc.*, 616 F.3d 1098, 1105, n.6 (10th Cir. 2010) (noting that time records reflected "efficient cooperation, rather than redundancy"). Accordingly, this Court should determine that it is reasonable to award $28,860, based on a total of 48.1 hours at $600 per hour enhanced rate.

The Court should also award an additional $456.96 for 1.75 hours of attorney Alyssa Reed's work on this litigation, at the statutory rate of $261.12. Finally, the Court should award $540 for 3.6 hours of paralegal Karla Mier-Pedro's work on this litigation, at her hourly rate of $150. *See* Dawgert Decl., Exhibit 2.

D. Alternatively, the Court should grant fees at an adjusted statutory rate.

Even if the Court does not grant Mr. Martinez-Orellana's request for enhanced fees, it should grant fees in the amount of $13,556.83. The EAJA statute provides a rate of $125 per hour, which may be adjusted for increases in cost of living. 28 U.S.C. § 2412(d)(2)(A)(ii); *Harris v. R.R. Ret. Bd.*, 990 F.2d 519, 521 (10th Cir. 1993); *T.E. v. Kijakazi*, 2023 WL 7089901, at *4 (D. Colo. Oct. 26, 2023). According to the Bureau of Labor Statistics Consumer Price Index, the adjusted rate involving cost of living should be $261.12 per hour. *See* Exhibit 8. Multiplied by the total number of hours in this case (49.85 attorney hours and 3.6 paralegal hours), should the Court consider the adjusted statutory rate in this case, the Court should award a statutory-adjusted amount of $13,556.83 to Mr. Martinez-Orellana.

April 8, 2026

Respectfully submitted,

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