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Lee Gelernt\*  
Daniel A. Galindo (SBN 292854)  
Anand Balakrishnan\*  
Judy Rabinovitz\*  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
125 Broad St., 18th Floor  
New York, NY 10004  
T: (212) 549-2660  
*lgelernt@aclu.org*  
*dgalindo@aclu.org*  
*jrabinovitz@aclu.org*  
*abalakrishnan@aclu.org*

Stephen B. Kang (SBN 292280)  
Spencer E. Amdur (SBN 320069)  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
425 California Street, 7th Floor  
San Francisco, CA 94104  
T: (415) 343-0783  
*skang@aclu.org*  
*samdur@aclu.org*

*Attorneys for Plaintiffs*  
*\*Admitted Pro Hac Vice*  
*Counsel for Dora Plaintiffs on*  
*signature page*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L., et al.,

*Petitioners-Plaintiffs,*

v.

U.S. Immigration and Customs Enforcement  
("ICE"), et al.

*Respondents-Defendants.*

Case No. 18-cv-00428-DMS-AHG

Date Filed: September 24, 2024

**UNOPPOSED MOTION FOR  
PRELIMINARY APPROVAL OF  
SETTLEMENT REGARDING  
ATTORNEYS' FEES AND COSTS**

1 **NOTICE OF MOTION AND MOTION FOR PRELIMINARY APPROVAL OF**  
2 **SETTLEMENT REGARDING ATTORNEYS’ FEES AND COSTS**

3 PLEASE TAKE NOTICE that Plaintiffs will and hereby do move the Court for  
4 preliminary approval of a settlement resolving Plaintiffs’ claims for attorneys’ fees  
5 under the Equal Access to Justice Act (“EAJA”) and any other applicable sources of  
6 law. This motion is made pursuant to 28 U.S.C. §§ 2412(a)(1), (b), and (d)(1)(A) and  
7 Federal Rules of Civil Procedure 23 and 54(d).

8 Plaintiffs respectfully request that the Court award attorneys’ fees<sup>1</sup> as follows:

- 9 • For the Ms. L. Plaintiffs, a total award of \$6,109,934.14, with \$4,000,000  
10 to go to the ACLU and \$2,109,934.14 to go to the Steering Committee  
11 organizations;
- 12 • For the Dora Plaintiffs, a total award of \$301,729.93.

13 This Motion is based on this Notice of Motion, the attached brief, the  
14 concurrently filed declarations, and all other pleadings and papers on file in this action  
15 and such other argument or evidence that the Court may consider. Defendants have  
16 stated that they do not oppose Plaintiffs’ motion for attorneys’ fees.

17 **INTRODUCTION**

18 Plaintiffs respectfully seek approval of their settlement with Defendants  
19 concerning fees and costs. This Motion addresses the fees and expenses award for  
20 both the *Ms. L.* Plaintiffs, including the Steering Committee, as well as the *Dora*  
21 Plaintiffs, whose case was filed separately but later incorporated into this case.

22 Defendants have agreed to pay, and Plaintiffs have agreed to accept, subject to  
23 the Court’s approval, the following amounts in satisfaction of Plaintiffs’ claims for  
24

25 <sup>1</sup> Plaintiffs understand that absent an applicable exception, the fee award here is  
26 subject to being offset by debts owed by named Plaintiffs to any state or federal  
27 agency. Plaintiffs are aware of at least one debt owed by a class representative and  
28 understand that the fee award will be offset by the amount of that debt before the fee  
award is paid to class counsel.

1 costs, attorneys’ fees, and litigation expenses:

- 2 • For the Ms. L. Plaintiffs, a total award of \$6,109,934.14, with \$4,000,000
- 3 to go to the ACLU and \$2,109,934.14 to go to the Steering Committee
- 4 organizations;
- 5 • For the Dora Plaintiffs, a total award of \$301,729.93.

6 Pursuant to Rule 23(h) of the Federal Rules of Civil Procedure, Plaintiffs  
7 respectfully move for the Court’s approval of this settlement regarding fees and costs  
8 (the “Fees Settlement Agreement”). *See* Exhibit A.

### 9 **BACKGROUND**

10 The history of this case is set forth in numerous orders and filings in this case,  
11 including in the briefs filed in connection with the parties’ request for preliminary and  
12 final approval of the *Ms. L.* Settlement Agreement, which this Motion will hereinafter  
13 refer to as “the Merits Settlement.” *See, e.g.*, Dkt. 711, 715, 716, 721. This description  
14 will focus on updates concerning the parties’ fees negotiations.

15 The Merits Settlement provides that Defendants will pay Plaintiffs “reasonable  
16 fees and other expenses . . . in accordance with the Equal Justice to Access Act.”  
17 Merits Settlement, Section VIII. Defendants “reserve[d] their right to raise defenses  
18 related to the reasonableness” of fees and expenses, “but otherwise waive[d] their  
19 available defenses” under EAJA.

20 This Court also enlisted the aid of Magistrate Judge Goddard in facilitating the  
21 parties’ settlement discussions. On March 13, 2024, Judge Goddard held a status  
22 conference concerning the parties’ negotiations, and issued various deadlines for the  
23 parties to engage in and complete their negotiations. *See, e.g.*, Dkt. 740.

24 The *Ms. L* Plaintiffs served their fee demand on Defendants on April 10, 2024,  
25 after receiving extensions from this Court. *See* Dkt. 735. On April 29, 2024, the  
26 ACLU and Steering Committee provided their billing and costs records and reports.  
27 *See* Dkt. 742. Thereafter, the parties engaged in negotiations concerning Plaintiffs’ fee  
28

1 demand, and reached agreement in principle on July 1, 2024.

2 In February 2024, the *Dora* Plaintiffs submitted a fee proposal to Defendants  
3 based on the documented hours worked, after review for billing judgment. The *Dora*  
4 Plaintiffs also provided detailed records for Defendants’ review. After negotiations,  
5 the *Dora* Plaintiffs and Defendants reached agreement in principle on June 6, 2024.

6 The parties are now filing this Motion, after receiving extensions to finalize the  
7 Agreement. *See* Dkts. 747, 749.

8 **ARGUMENT**

9 **I. The Court Should Grant Preliminary Approval of the Proposed**  
10 **Settlement for Attorneys’ Fees and Costs.**

11 “In a certified class action, the court may award reasonable attorneys’ fees and  
12 nontaxable costs that are authorized by law or by the parties’ agreement.” Fed. R. Civ.  
13 P. 23(h). Because the parties have agreed to an attorneys’ fee and costs award, the  
14 Court’s task is to determine whether the agreed-upon amount is reasonable, using the  
15 fees potentially awardable under the relevant fee-shifting statute or statutes as a  
16 benchmark. *See Comm’r, INS v. Jean*, 496 U.S. 154, 161 (1990) (“[O]nce a private  
17 litigant has met the multiple conditions for eligibility for EAJA fees, the district  
18 court’s task of determining what fee is reasonable is essentially the same as that  
19 described in *Hensley*.”). The *Ms. L* and *Dora* Plaintiffs are eligible for attorneys’ fees  
20 and expenses pursuant to the EAJA as a prevailing party. 28 U.S.C. § 2412.

21 **A. The Ms. L Plaintiffs and Steering Committee**

22 The *Ms. L* Plaintiffs seek a total award of \$6,109,934.14, with \$4,000,000 for  
23 the ACLU and \$2,109,934.14 for the Steering Committee organizations.

24 **1. Plaintiffs’ Requested Fee Award is Reasonable.**

25 Here, the agreed upon amounts in fees and expenses is reasonable when  
26 compared to a lodestar. “The lodestar method is most appropriate where the relief  
27 sought is primarily injunctive in nature, and a fee-shifting statute authorizes the award  
28

1 of fees to ensure compensation for counsel undertaking socially beneficial litigation.”  
2 *Laguna v. Coverall N. Am., Inc.*, 753 F.3d 918, 924 (9th Cir. 2014), *vacated on other*  
3 *grounds*, 772 F.3d 608 (9th Cir. 2014) (citation and quotation marks omitted). A  
4 lodestar figure is “presumptively reasonable.” *Cunningham v. Cty. of Los Angeles*,  
5 879 F.2d 481, 488 (9th Cir. 1988) (citation omitted). Under the Supreme Court’s  
6 decision in *Hensley v. Eckerhart*, “[t]he most useful starting point for determining the  
7 amount of a reasonable fee is the number of hours reasonably expended on the  
8 litigation multiplied by a reasonable hourly rate.” 461 U.S. 424, 433 (1983). The  
9 district court may adjust that amount based on other factors, “including the important  
10 factor of the results obtained.” *Id.* at 434 (quotation marks omitted).

11 Here, the settlement amount is a fraction of the fees and costs actually incurred,  
12 which, under conservative calculations, Plaintiffs and the Steering Committee  
13 estimate to be approximately \$8.7 million. The Ms. L Plaintiffs and Steering  
14 Committee have agreed to accept less than 70% of this lodestar as part of Settlement.

15 This figure is reasonable in light of the complexity of this litigation, the novelty  
16 of the issues presented, the results obtained, and the skill and experience of the  
17 attorneys. As the Court knows, this litigation was unusually intense, as it involved one  
18 of the prior Administration’s most controversial immigration policies, which  
19 dominated national news for lengthy periods of time. Starting from the case’s filing in  
20 February 2018, the parties engaged in fast-paced and complex litigation concerning  
21 Ms. L’s individual request for relief, *see, e.g.*, Dkt. 21, Plaintiffs’ motions for  
22 classwide preliminary injunction, and Defendants’ motion to dismiss. *See, e.g.*, Dkts.  
23 35, 48, 56, 78, 81. *See* Declaration of Stephen B. Kang (“Kang Decl.”), ¶5.

24 After this Court issued a classwide preliminary injunction in late June 2018, the  
25 parties began intense litigation concerning the enforcement of the injunction. The  
26 Court held multiple status conferences and hearings for months, accompanied by  
27 numerous status reports. These reports addressed a broad spectrum of issues,  
28

1 including the identification and reunification of separated parents, identifying and  
2 tracking Class Members' locations, and the procedures governing the release of  
3 children to Class Members. *See, e.g.*, Dkts. 98, 99, 104, 146, 171, 189.

4 This pace continued through 2018 and much of 2019. Among other things,  
5 Plaintiffs filed an emergency classwide motion for a temporary restraining order  
6 enjoining the removal of Class Members, *see, e.g.*, Dkt. 116, litigated issues  
7 concerning excluded class members, *see, e.g.*, Dkt. 221, and conferred numerous  
8 times concerning identification and outreach to the Class. Plaintiffs also moved to  
9 expand the Class to include parents separated during earlier phases of the prior  
10 Administration, which resulted in intensive efforts to identify expanded Class  
11 members. *See, e.g.*, Dkts. 344, 386, 397. The parties also engaged in motion practice  
12 concerning, *inter alia*, returning parents who were unlawfully deported to the United  
13 States, *e.g.*, Dkt. 418, and exclusions from the Class based on criminal history,  
14 parentage, and other reasons, *e.g.*, Dkt. 439.

15 Concurrently, in August 2018 Plaintiffs formed (with the Court's endorsement)  
16 the Steering Committee, comprised of the law firm of Paul Weiss Rifkind Garrison  
17 LLP, Justice in Motion, Kids in Need of Defense, and the Women's Refugee  
18 Commission. *See* Dkt. 175 at 2; Dkt. 181 at 7-8; Kang Decl., ¶¶7-10. The Steering  
19 Committee began identifying, locating, and reaching out to Class Members to inform  
20 them of, and help them exercise, their reunification rights. This work was  
21 extraordinarily difficult, as numerous Class Members were deported to various  
22 countries with no effort to reunify them with their families or maintain accurate  
23 information. The Steering Committee sent human rights defenders to numerous and  
24 remote locations in Central America and other countries to find separated family  
25 members; reviewed voluminous and complex government records to find usable  
26 contact information; employed investigation tools to locate parents; and counseled  
27 family members. These efforts continued from August 2018 through December 2023,  
28

1 when the Court granted final approval of the Merits Settlement.

2 Starting in early 2021, the parties engaged in complex settlement negotiations  
3 for almost three years, which involved numerous government agencies and  
4 stakeholder organizations, and addressed many contested issues and difficult areas of  
5 law. *See* Dkt. 579. Those negotiations resulted in a comprehensive Merits Settlement  
6 that provided a diverse array of significant benefits to the Class. In 2021, Defendants  
7 also established the Family Reunification Task Force, *see* Dkt. 573, which began  
8 efforts to reunify separated class members in the United States pursuant to  
9 humanitarian parole processes. The implementation of that process became part of the  
10 parties' settlement negotiations in this case, and Plaintiffs and the Steering Committee  
11 played key roles in ensuring the effectiveness of these parole processes.

12 The ACLU's attorneys are all entitled to enhanced rates under EAJA. Because  
13 ACLU IRP's lawyers have unique expertise in handling complex federal litigation  
14 involving immigration issues, particularly involving children and families, they are  
15 entitled to enhanced rates under EAJA. *See Nadarajah v. Holder*, 569 F.3d 906, 912  
16 (9th Cir. 2009); Kang Decl., ¶¶11-50.

17 Finally, the amount of the Ms. L Plaintiffs' lodestar excluded multiple areas of  
18 work. For example, Plaintiffs did not request fees for work contributed by certain  
19 junior attorneys and paralegals at various points. For its part, the Steering Committee  
20 is not seeking enhanced rates, and is not seeking compensation for periods of time in  
21 2021-22 when they conducted outreach efforts pursuant to certain government  
22 contracts. Kang Decl., ¶¶6, 10.

## 23 **2. Plaintiff's Costs Are Reasonable**

24 Nontaxable costs may also be awarded to class counsel under Rule 23(h). *See*  
25 Fed. R. Civ. P. 23(h). Plaintiffs' demand included a total of \$957,909.65, which  
26 includes both the ACLU and the Steering Committee's costs. That amount is fair and  
27 reasonable. The large majority of this figure was spent on outreach and identifying  
28

1 Class Members, such as funding human rights defenders and other searches in Central  
2 America to look for hundreds of families (often in remote locations), transportation  
3 and travel costs for defenders and families, and interpretation and translation services.  
4 The remaining costs were comprised of routine litigation expenditures, such as court  
5 fees and travel expenses for the numerous court appearances in this case, particularly  
6 during the litigation-heavy 2018-19 period. Kang Decl., ¶3. Like the fees discussed  
7 above, this amount only includes costs spent through December 11, 2023.

8 **3. The Fees Agreement Is the Product of Extended Arms-Length**  
9 **Negotiations Between Well-Informed and Experienced Counsel.**

10 The Settlement is the product of extensive negotiation between counsel for both  
11 parties. The parties exchanged offers and counteroffers over a period of months,  
12 and also appeared at a status conference before Magistrate Judge Goddard. Further,  
13 the award of fees and costs will not affect the relief the Merits Settlement affords an  
14 individual class member.

15 Counsel for the parties also have deep experience with similar actions, which  
16 further supports preliminary approval of the Fees Settlement. *Ms. L* Plaintiffs' counsel  
17 has substantial experience with complex immigration litigation and class/civil rights  
18 actions, and has unique expertise in working with this Class in particular. Defendants'  
19 lawyers are tasked specifically with defending lawsuits raising constitutional and  
20 statutory claims related to noncitizens in government custody. *See* 28 C.F.R. §  
21 0.45(k). The opinion of the parties' experienced counsel regarding the Fees  
22 Settlement's fairness "provides further support for approval" of this Agreement. *Chan*  
23 *v. Sutter Health Sacramento*, LA CV15-02004 JAK (AGR<sub>x</sub>), 2017 WL 819903, at \*5  
24 (C.D. Cal. Feb. 14, 2017).

25 Moreover, the Ninth Circuit has "made clear that 'since the proper amount of  
26 fees is often open to dispute and the parties are compromising precisely to avoid  
27 litigation, the court need not inquire into the reasonableness of the fees at even the  
28



1 high end with precisely the same level of scrutiny as when the fee amount is  
2 litigated.” *Laguna*, 753 F.3d at 922 (citation and quotation omitted).

3 **B. The *Dora* Plaintiffs.**

4 For the reasons set forth below, the *Dora* Plaintiffs request and are entitled  
5 under the EAJA to reasonable attorneys’ fees and expenses for a total of \$301,729.93.

6 **1. The *Dora* Plaintiffs’ Requested Award is Reasonable.**

7 The requested attorney fees of \$299,032.02 are reasonable. “[R]easonable  
8 attorney fees” are available to eligible parties under the EAJA. 28 U.S.C. §  
9 2412(d)(2)(A). Fee-shifting statutes like the EAJA compensate for time that is  
10 “reasonably expended on the litigation.” *Hensley*, 461 U.S. at 433. The attached  
11 Declaration supports the total amount of reasonable time counsel spent working on the  
12 case at the applicable rates. *See* Declaration of Wilson G. Barmeyer. The fee request  
13 includes work performed from the initiation of the *Dora* litigation in 2018 through the  
14 global *Ms. L* settlement in late 2023.

15 Although *Dora* counsel were representing a number of families in  
16 administrative proceedings before August 2018, which led directly to the *Dora*  
17 litigation, *Dora* counsel are not requesting EAJA fees for that work and are instead  
18 seeking fees beginning with work performed in connection with filing the litigation in  
19 2018. *Dora* counsel’s request includes fees for litigating the case through class action  
20 settlement in 2018, the subsequent filing of an amended complaint in the *Ms. L* case  
21 (adding *Dora* claims as part of *Ms. L*), the process for seeking approval of the 2018  
22 class action settlement, and time worked on implementation of the *Dora* settlement,  
23 which included motion practice to enforce the settlement.

24 For rates, *Dora* counsel is requesting fees under the EAJA statutory rates  
25 pursuant to 28 U.S.C. § 2412 (d)(2)(A), calculated according to the formula set out in  
26 *Thangaraja v. Gonzales*, 428 F.3d 870, 876–77 (9th Cir. 2005), which makes the fee  
27 request much lower than a lodestar rate. An award of attorneys’ fees is typically  
28

1 determined by the lodestar method, which is calculated by multiplying the number of  
2 hours reasonably expended by a reasonable hourly rate. *Ferland v. Conrad Credit*  
3 *Corp.*, 244 F.3d 1145, 1149 n.4 (9th Cir. 2001). This may be adjusted based upon  
4 other factors, including the “results obtained.” *See Hensley*, 461 U.S. at 434. There is  
5 a “strong presumption” that the lodestar amount represents a reasonable fee. *Gates v.*  
6 *Deukmejian*, 987 F.2d 1392, 1397 (9th Cir. 1992). *Dora* counsel is limiting its request  
7 to the EAJA rates of approximately \$200/hour notwithstanding the complexity of the  
8 work performed in this case. Using the EAJA rates results in a very substantial  
9 reduction from the fees that could be sought under any other rate scale. Given the  
10 significant and complex legal and factual issues and the number of parties and class  
11 members, with litigation spanning five years and multiple jurisdiction, and the results  
12 obtained in the litigation, the attorney’s fees and expenses requested in this settlement  
13 are reasonable as compared to the potential lodestar. The request of \$299,032.02 in  
14 fees is less than 1/3 of the lodestar, if the fee request were based on market rates.

15 *Dora* counsel have also exercised billing judgment to review the time entries  
16 and remove hours that counsel believed were unsupported, i.e., under the EAJA  
17 counsel should exclude hours that are “excessive, redundant, or otherwise  
18 unnecessary,” or were occurrences of block billing and vague time entries. *Hensley*,  
19 461 U.S. at 434. *Dora* counsel exercised billing judgment at several stages, including  
20 through a review and reduction of certain time entries and by agreeing to further such  
21 reductions in discussions with Defendants. Accordingly, the request for attorney’s fees  
22 from 2018–2023 for 1627.5 hours at \$299,032.02 is reasonable.

23 *Dora* plaintiffs also incurred reasonable expenses in the amount of \$2,697.91  
24 and are entitled to these expenses under the EAJA. The expenses cover filing fees,  
25 travel to a court hearing, and costs of printing for communications to class members.

26 **II. The Court Should Approve the Parties’ Proposed Notice Plan and**  
27 **Set a Hearing for Final Approval of the Fees Settlement.**  
28

1 Under Rule 23(e)(1), the Court should “direct notice in a reasonable manner to  
2 all class members who would be bound” by the proposed settlement. Notice is  
3 satisfactory if it “generally describes the terms of the settlement in sufficient detail to  
4 alert those with adverse viewpoints to investigate and come forward and be heard.”  
5 *Churchill Vill. v. Gen. Elec.*, 361 F.3d 566, 575 (9th Cir. 2004) (citation and quotation  
6 marks omitted).

7 The Notice Plan here easily fulfills these requirements. The Fees Notice  
8 (attached here as Exhibit B) will be distributed by posting on the websites of  
9 Defendants and the ACLU within ten days of the Court’s preliminary approval order;  
10 distribution via a broad network of nonprofit organizations and advocacy groups who  
11 each work with dozens (if not hundreds) of Class Members; and distribution to  
12 Plaintiffs’ extensive list of lawyers who represent Class Members. The Fees Notice  
13 will be translated to and distributed in Spanish, as well as English.

14 The Fees Notice will include summary information regarding the Fees  
15 Agreement, as well as links to websites containing the Fee Agreement’s full terms.  
16 “Courts have routinely held that notice by publication in a periodical, on a website, or  
17 even at an appropriate physical location is sufficient to satisfy due process.” *Briseno v.*  
18 *ConAgra Foods, Inc.*, 844 F.3d 1121, 1129 (9th Cir. 2017).

19 The parties also propose that the Court set the following deadlines for approval  
20 of the Fees Agreement:

- 21 • Deadline for objections/responses to Fees Agreement: 30 days after Court  
22 grants preliminary approval
- 23 • Deadline for the parties to submit any replies in support of approval of the Fees  
24 Agreement and for parties to file motion for final approval: 35 days after Court  
25 grants preliminary approval
- 26 • Hearing on final approval of Fees Agreement: Earliest practicable date after  
27 briefing is complete  
28

**CONCLUSION**

For these reasons, the Court should grant this motion.

DATED: September 24, 2024

Respectfully submitted,

/s/ Lee Gelernt  
Lee Gelernt\*  
Daniel A. Galindo (SBN 292854)  
Anand Balakrishnan\*  
Judy Rabinovitz\*  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
125 Broad St., 18th Floor  
New York, NY 10004  
T: (212) 549-2660  
*lgelernt@aclu.org*  
*dgalindo@aclu.org*  
*jrabinovitz@aclu.org*  
*abalakrishnan@aclu.org*

/s/ Stephen B. Kang  
Stephen B. Kang (SBN 292280)  
Spencer E. Amdur (SBN 320069)  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION  
425 California Street, 7th Floor  
San Francisco, CA 94104  
T: (415) 343-0783  
*skang@aclu.org*  
*samdur@aclu.org*

*Attorneys for Ms. L Petitioners-Plaintiffs*  
*\*Admitted Pro Hac Vice*

/s/ Wilson G. Barmeyer  
Wilson G. Barmeyer\*  
Carol T. McClarnon\*  
John H. Fleming\*  
700 Sixth Street NW, Suite 700

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28

Washington, DC 20001  
(202) 383-0100  
(202) 637-3593 (facsimile)  
wilsonbarmeyer@eversheds-sutherland.com  
carolmcclarnon@eversheds-sutherland.com  
johnfleming@eversheds-sutherland.com

Sirine Shebaya\*  
National Immigration Project  
1200 18th Street NW Suite 700  
Washington, DC 20036  
(202) 656-4788  
sirine@nipnlg.org

*Attorneys for Dora Petitioners-Plaintiffs*  
*\*Admitted Pro Hac Vice*

**CERTIFICATE OF SERVICE**

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I hereby certify that on September 24, 2024, I electronically filed the foregoing with the Clerk for the United States District Court for the Southern District of California by using the appellate CM/ECF system. A true and correct copy of this brief has been served via the Court’s CM/ECF system on all counsel of record.

/s/ Stephen B. Kang  
Stephen B. Kang, Esq.

1 Lee Gelernt\*  
2 Dan Galindo (SBN 292854)  
3 Judy Rabinovitz\*  
4 Anand Balakrishnan\*  
5 AMERICAN CIVIL LIBERTIES  
6 UNION FOUNDATION  
7 IMMIGRANTS' RIGHTS PROJECT  
8 125 Broad St., 18th Floor  
9 New York, NY 10004  
10 T: (212) 549-2660  
11 *lgelernt@aclu.org*  
12 *dgalindo@aclu.org*  
13 *jrabinovitz@aclu.org*  
14 *abalakrishnan@aclu.org*

Stephen Kang (SBN 292280)  
Spencer E. Amdur (SBN 320069)  
AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
IMMIGRANTS' RIGHTS PROJECT  
425 California Street, 7th Floor  
San Francisco, CA 94104  
T: (415) 343-0783  
*skang@aclu.org*  
*samdur@aclu.org*

*Attorneys for Petitioners-Plaintiffs*

*\*Admitted Pro Hac Vice*

11 **UNITED STATES DISTRICT COURT**  
12 **SOUTHERN DISTRICT OF CALIFORNIA**

14 Ms. L. et al.,

15 *Petitioners-Plaintiffs,*

16 v.

17 U.S. Immigration and Customs Enforcement  
18 ("ICE"); et al,

19 *Respondents-Defendants.*

Case No. 18-cv-00428-DMS-  
MDD

Date Filed: September 24, 2024

**DECLARATION OF  
STEPHEN B. KANG IN  
SUPPORT OF MOTION  
FOR ATTORNEYS' FEES AND  
COSTS**

Class Action

1 1. I am an attorney duly licensed to practice law in the State of California and a  
 2 member of the Bar of this Court. I am a Senior Staff Attorney at the ACLU  
 3 Foundation Immigrants’ Rights Project (“ACLU IRP”), and am counsel for the  
 4 Plaintiff Class in this action. The following is based on my personal knowledge.

5 2. This declaration will describe both the effort and expenses ACLU IRP and  
 6 the Steering Committee devoted to this case, as well as the qualifications of ACLU  
 7 IRP’s attorneys in support of our request for enhanced EAJA rates.

8 3. ACLU IRP conservatively calculates that the lodestar fees and expenses  
 9 figure for both ACLU IRP and the Steering Committee is as follows:

	<b>Fees</b>	<b>Expenses</b>	<b>Total</b>
<b>ACLU IRP</b>	\$4,745,900	\$361,951.20	
<b>Steering Committee</b>	\$3,027,951.39	\$595,958.45	
<b>TOTAL</b>	<b>\$7,773,851.39</b>	<b>\$957,909.65</b>	<b>\$8,731,761.04</b>

14  
 15 4. ACLU IRP and the Steering Committee’s requested award of fees and costs  
 16 in this case is a total of \$6,109,934.14, which is less than 70% of the above  
 17 lodestar. Both ACLU IRP and the Steering Committee accepted this reduced figure  
 18 in the interest of compromise.

19 **DESCRIPTION OF ACLU IRP’S COMPENSABLE TIME AND COSTS**

20 5. This litigation involved an extraordinary amount of activity from early 2018  
 21 through the final approval of the Merits Settlement. I provide a brief, nonexhaustive  
 22 summary of ACLU IRP’s activity below, in rough chronological order.

- 23 • Early 2018 Through June 25, 2018: Case investigation of family separation  
 24 policies and practices; legal research and factual development; identification  
 25 and filing complaint for Ms. L as initial named Plaintiff; emergency litigation  
 26 of Ms. L’s individual request for reunification; filing class complaint adding  
 27 Ms. C and seeking classwide preliminary injunction, including rounds of



1 emergency briefing and multiple hearings; litigating Defendants' motion to  
2 dismiss.

- 3 • June 26, 2018 Through End of 2018: Engaging in enforcement of  
4 preliminary injunction; attending numerous status conferences and meet and  
5 confers with Defendants concerning identification of class members,  
6 reunification process and enforcement of preliminary injunction; litigating  
7 emergency motion to block removals of Class Members; litigation  
8 concerning criminal exclusions from Class; participating in negotiation of  
9 *M.M.M./Dora* settlement; providing information to public and to Class  
10 Members concerning developments in the case and reunification rights.
- 11 • January 2019 Through End of 2020: Litigating motion to expand the Class  
12 to include parents separated during earlier phases of the prior Administration;  
13 intensive efforts (in conjunction with the Steering Committee) and meet and  
14 confers to identify expanded Class Members; litigating motion to return  
15 unlawfully deported Class Members; litigating exclusions from the Class  
16 based on criminal history, parentage, and other reasons.
- 17 • Early 2021 Through Final Approval of Merits Settlement: Engaging in  
18 complex settlement negotiations with Defendants to bring relief to Class  
19 Members, involving numerous government and NGO stakeholders;  
20 participating in implementation of Family Reunification Task Force parole  
21 processes; providing information to numerous Class Members and their  
22 advocates/lawyers regarding their reunification rights and status of  
23 Settlement; seeking final approval of Merits Settlement.

24 6. For purposes of negotiation with Defendants and this request for fees, ACLU  
25 IRP is only seeking fees for time spent through December 11, 2023. ACLU IRP is  
26 also not seeking time for various junior attorneys and certain paralegals who  
27 contributed to this case at different points prior to December 11, 2023.

28

1 **DESCRIPTION OF STEERING COMMITTEE’S COMPENSABLE TIME**  
2 **AND COSTS**

3 7. The Steering Committee was comprised of the law firm of Paul Weiss  
4 Rifkind Garrison LLP, along with Justice in Motion, Kids in Need of Defense, and  
5 the Women’s Refugee Commission. *See* Dkt. 175 at 2; Dkt. 181 at 7-8 (explaining  
6 functions of Steering Committee).

7 8 Immediately after its formation in August 2018, the Steering Committee began  
8 intensive work to identify and reach out to Class Members to inform them of their  
9 rights under the Court’s orders, as well as help them exercise their reunification  
10 options. The Steering Committee sent human rights defenders to numerous and  
11 often remote locations in Central America and other countries to find separated  
12 families; reviewed voluminous, complicated, and incomplete government records to  
13 find usable contact information; conducted records searches and employed other  
14 investigation tools to locate parents; and counseled numerous Class Members and  
15 family members on their reunification rights under the Court’s orders.

16 9. The large majority of the Steering Committee’s costs and expenses, as well  
17 as those of ACLU IRP, were devoted to funding these outreach efforts. Those  
18 efforts frequently required substantial logistical resources to identify and locate  
19 Class Members, many of whom lived in remote locations or were otherwise very  
20 difficult to find.

21 10. Like ACLU IRP, the Steering Committee is only seeking fees for time spent  
22 through December 11, 2023. For purposes of this motion, the Steering Committee’s  
23 attorneys are also not seeking enhanced/market rates for their work on this case,  
24 and their lodestar is based on the Ninth Circuit’s EAJA statutory rates.<sup>1</sup> Certain  
25 Steering Committee organizations have also excluded any time they spent on family  
26

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27 <sup>1</sup> Statutory Maximum Rates under the Equal Access to Justice Act,  
28 <https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited  
Sept. 24, 2024).

1 separation outreach efforts during certain periods of time in 2021-22 when they  
 2 received some government funding to conduct outreach to separated families.

3 **QUALIFICATIONS AND RATES OF ACLU IRP COUNSEL**

4 11. ACLU IRP is seeking time for the following seven attorney timekeepers and  
 5 two Reunification Specialists/paralegals. The seven attorneys are:

6

Name	Role	Grad Year
Lee Gelernt	Deputy Director	1988
Judy Rabinovitz	Senior Counsel	1985
Anand Balakrishnan	Senior Staff Attorney	2009
Carmen Iguina González	Senior Staff Attorney (former)	2010
Stephen Kang	Senior Staff Attorney	2011
Daniel Galindo	Senior Staff Attorney	2012
Spencer Amdur	Senior Staff Attorney	2013

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16 12. ACLU IRP’s lodestar is based on enhanced/market rates for the seven  
 17 attorney timekeepers. All seven attorneys are entitled to enhanced rates under  
 18 EAJA. *See infra*. Plaintiffs’ claimed rates for Anand Balakrishnan, Carmen Iguina  
 19 González, Stephen Kang, Daniel Galindo, and Spencer Amdur range from  
 20 \$425/hour to \$650/hour depending on their graduation year and the year in which  
 21 they performed work. Those rates are consistent with San Diego market rates for  
 22 attorneys of their seniority and level of expertise.

23 13. Plaintiffs’ claimed rates for Lee Gelernt and Judy Rabinovitz is \$900/hour,  
 24 based on their each having over 30 years of experience litigating major civil rights  
 25 and immigration cases, and being recognized national leaders in the field. These  
 26 rates are consistent with (and even lower than) San Diego market rates for attorneys  
 27 who have comparable levels of expertise and seniority.

28 14. ACLU IRP’s billing rates for the two paralegal timekeepers is \$125/hour.

1 15. This case required extensive knowledge of complicated immigration and  
2 constitutional issues that required unique expertise in federal jurisdictional statutes,  
3 substantive immigration law and regulations, and numerous technical aspects of the  
4 immigration and removal system. This case was even more complicated because it  
5 involved the custody rights of families and unaccompanied children in immigration  
6 custody, an issue that lies at the intersection of multiple overlapping legal regimes.  
7 ACLU IRP's attorneys have such expertise, having litigated numerous complex  
8 immigration cases in federal court. Accordingly, all of ACLU IRP's lawyers are  
9 entitled to enhanced/market rates. I describe below the attorneys' expertise.

10 **Lee Gelernt**

11 16. Lee Gelernt is a Deputy Director of ACLU IRP, where he has litigated  
12 constitutional and civil rights cases since 1992. He is widely recognized as one of  
13 the country's leading public interest lawyers and has argued dozens of major civil  
14 rights cases during his career, including in the U.S. Supreme Court, virtually every  
15 federal court of appeals in the country, and district courts throughout the country.  
16 He has also testified as a legal expert before both the U.S. House and Senate. In  
17 addition to his work at the ACLU. Mr. Gelernt is an adjunct professor at Columbia  
18 Law School, and previously was an adjunct at Yale Law School.

19 17. Apart from this case, he has served as lead counsel, or argued in, many  
20 important immigration cases, including recent systemic cases challenging the  
21 federal government's efforts to restrict noncitizens from accessing asylum, or the  
22 federal courts. *See, e.g., Huisha-Huisha v. Mayorkas*, 27 F.4th 718, 722 (D.C. Cir.  
23 2022) (upholding in part order enjoining policy of banning asylum seekers from  
24 United States based on COVID-19; injunction later vacated after government end of  
25 policy); *East Bay Sanctuary Covenant II v. Barr*, 994 F.3d 962 (9th Cir. 2020)  
26 (amended Apr. 8, 2021) (addressing bar on asylum for individuals who transit  
27 through third country); *Capital Area Immigrants' Rights Coal. v. Trump*, No. 19-  
28 CV-2117-TJK, 2020 WL 3542481 (D.D.C. June 30, 2020) (vacating same bar);

1 *East Bay Sanctuary Covenant I v. Trump*, 950 F.3d 1242 (9th Cir. 2020) (affirming  
2 injunction of ban of asylum for noncitizens entering between ports of entry); *DHS*  
3 *v. Thuraissigiam*, 591 U.S. 103 (2020) (challenge to restrictions on habeas corpus  
4 for asylum seekers).

5 18. Over Mr. Gelernt's career, he has litigated and argued dozens of other  
6 notable civil rights cases. In the aftermath of the September 11 attacks, he litigated  
7 several high-profile national security cases and served as one of only a few human  
8 rights observers at Guantanamo Bay for the first military trial conducted by the  
9 U.S. since World War II. One of these cases became *Ashcroft v. al-Kidd*, 563 U.S.  
10 731 (2011), in the U.S. Supreme Court, involving the government's post 9-11  
11 policy of using the federal material witness statute to investigate and preventively  
12 detain terrorism suspects in cases where was no probable cause to justify a criminal  
13 arrest. He also successfully argued one the very first major September 11 cases to  
14 reach the federal courts of appeals, *Detroit Free Press v. Ashcroft*, 303 F.3d 681  
15 (6th Cir. 2002), where he represented the media in their lawsuit seeking to prevent  
16 the government from holding secret deportation hearings after September 11.

17 19. Mr. Gelernt has won numerous awards for his work and has been recognized  
18 as one of the 500 leading lawyers in the country in any field. He is regularly asked  
19 to give keynote addresses around the country and frequently appears in the national  
20 and international media.

21 20. Mr. Gelernt graduated from Columbia Law School, where he was a Notes &  
22 Comments editor of the Law Review and clerked for the late Judge Frank Coffin of  
23 the First Circuit Court of Appeals.

#### 24 **Judy Rabinovitz**

25 21. Judy Rabinovitz is Senior Counsel at ACLU IRP, where she previously  
26 served as Deputy Director. She has worked at ACLU IRP since 1988. The Ninth  
27 Circuit has previously awarded market rates for Ms. Rabinovitz's work in the  
28 immigration detention context. *See Nadarajah v. Holder*, 569 F.3d 906, 914 (9th

1 Cir. 2009) (recognizing Ms. Rabinovitz’s unique expertise in, inter alia, “historical  
2 material concerning immigration detention, detailed treatment of new and relatively  
3 obscure statutory provisions governing [mandatory immigration detention]”).

4 22. Ms. Rabinovitz is admitted to practice in New York and practice before  
5 numerous federal courts. She graduated from New York University School of Law  
6 in 1985, where she has also served as adjunct faculty since 1997.

7 23. Ms. Rabinovitz is one of the nation’s leading civil rights attorneys working in  
8 the area of immigration detention. She argued before the U.S. Supreme Court in  
9 *Demore v. Kim*, 538 U.S. 510 (2003) (challenge to mandatory detention statute),  
10 and played key roles in the litigation culminating in *Zadvydas v. Davis*, 533 U.S.  
11 678 (2001) (striking down indefinite detention of postfinal order deportees who  
12 could not be removed), and *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that  
13 *Zadvydas* applies to noncitizens apprehended at the border).

14 24. Ms. Rabinovitz has also served as lead counsel, co-counsel, or counsel for  
15 plaintiffs or amici curiae in numerous landmark immigration cases in the federal  
16 courts of appeals. Examples: *Innovation L. Lab v. Wolf*, 951 F.3d 986 (9th Cir.  
17 2020) (granting in part and denying in part stay of preliminary injunction against  
18 government immigration policy known as “Migration Protection Protocols”),  
19 *vacated as moot* by 5 F.4th 1099 (9th Cir. 2021); *Gayle v. Warden, Monmouth Cty.*  
20 *Correctional Institution*, 838 F.3d 297 (3d Cir. 2016) (class action challenging the  
21 mandatory detention of individuals with substantial challenges to removal in New  
22 Jersey); *Leslie v. Attorney General*, 678 F.3d 265 (3d Cir. 2012) (argued as amicus  
23 counsel in pro se case) (holding that detainees cannot be penalized for the time  
24 required to pursue bona fide challenges to removal in assessing reasonableness of  
25 their prolonged detention); *Alli v. Decker*, 650 F.3d 1007 (3d Cir. 2011) (holding  
26 that immigration detainees are not barred from challenging their detention in a class  
27 action); *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011) (amicus counsel) (requiring  
28 that the government justify continued prolonged immigration detention by clear and

1 convincing evidence); *Nadarajah v. Gonzales*, 443 F.3d 1069 (9th Cir. 2006)  
2 (holding that asylum seeker could not be subject to prolonged and indefinite  
3 immigration detention as national security threat); *Rosales-Garcia v. Holland*, 322  
4 F.3d 386 (6th Cir. 2003) (en banc) (argued) (striking down indefinite detention of  
5 excludable noncitizens).

6 25. Ms. Rabinovitz has also served as lead counsel or co-counsel in class cases  
7 concerning the rights of noncitizens facing removal. *See, e.g., R.I.L.R. v. Johnson*,  
8 80 F. Supp. 3d 164 (D.D.C 2015) (granting classwide preliminary injunction  
9 prohibiting government from detaining women and children seeking asylum based  
10 on desire to deter others from migrating).

11 26. Ms. Rabinovitz serves as a resource for nonprofit, pro bono, and private  
12 attorneys litigating immigration detention cases throughout the country. She has  
13 provided advice and editorial assistance to dozens of attorneys in that capacity. Ms.  
14 Rabinovitz has also taught continuing legal education workshops on immigration  
15 detention litigation.

16 **Anand Venkata Balakrishnan**

17 27. Anand Balakrishnan is a Senior Staff Attorney at the ACLU Immigrants'  
18 Rights Project. His experience includes immigrants' rights litigation in the federal  
19 courts, criminal and capital defense in state and federal courts, and direct  
20 representation of noncitizens in immigration court and appeals.

21 28. Mr. Balakrishnan is a 2009 graduate of the Yale Law School. He is a member  
22 of the Connecticut bar, and is admitted to practice in the U.S. Courts of Appeals for  
23 the First, Second, Third, Fifth, Sixth, Seventh, Ninth, Tenth, and D.C. Circuits, and  
24 the U.S. District Courts for the Eastern District of Michigan and Connecticut.

25 29. Mr. Balakrishnan has briefed and argued immigrants' rights cases, as lead  
26 counsel, as amicus, and as part of a larger team, in the U.S. Courts of Appeals for  
27 the First, Second, Third, Seventh, Ninth, and Tenth, and D.C. Circuits, and in  
28 numerous district courts around the country. Examples: *Inestroza-Tosta v. Att'y*

1 *Gen.*, 105 F.4th 499, 505 (3d Cir. 2024) (jurisdiction over torture and persecution  
2 claims); *Las Americas v. McCraw*, 2024 WL 861526 (W.D. Tex. Feb. 29, 2024)  
3 (legality of Texas law criminalizing entry and reentry of noncitizens), *Make the*  
4 *Road v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020) (legality of expansion of expedited  
5 removal); *R.I.L.R. v. Johnson*, 80 F. Supp. 3d 164 (D.D.C 2015) (parole of  
6 noncitizens); *Rivera v. Holder*, 307 F.R.D. 539 (W.D. Wash. 2015) (authority of  
7 ICE to release noncitizens on conditional parole)

8 30. Mr. Balakrishnan has been appointed as class counsel in a number of cases,  
9 including: *Hamama v. Adducci*, 2:17-cv-11910 (E.D. Mich), *Malam v. Adducci*,  
10 5:20-cv-10829 (E.D Mich.); *Padilla v. ICE*, 2:18-cv-00928-MJP (W.D. Wash.);  
11 *R.I.L.R. v. Johnson*, 80 F. Supp. 3d 164 (D.D.C); and *Rivera v. Holder*.

12 **Carmen Iguina González (former ACLU IRP attorney)**

13 31. Carmen Iguina González was formerly a Senior Staff Attorney at ACLU IRP.  
14 As of the time of her work on this case, her experience included litigation of  
15 complex civil matters as well as important immigrants' rights and criminal justice  
16 cases, and direct representation before the immigration courts and federal courts.

17 32. Among her cases, Ms. Iguina González was counsel in the first case that  
18 established a right to appointed legal representation for any group of immigrants  
19 facing deportation, *Franco-Gonzalez v. Holder*, No. CV 10-02211 DMG DTBX,  
20 2013 WL 3674492 (C.D. Cal. Apr. 23, 2013), which required the federal  
21 government to provide legal representation to immigrants with mental disabilities.  
22 The *Franco-Gonzalez* team received the 2014 Jack Wasserman Memorial Award  
23 from the American Immigration Lawyers Association.

24 33. Ms. Iguina González was also counsel in *J.E.F.M. v. Lynch*, 837 F.3d 1026  
25 (9th Cir. 2016), a nationwide class action lawsuit seeking to require the government  
26 to provide children with legal representation in their deportation hearings, and  
27 *Alfaro Garcia v. Holder*, 14-cv-017753 (N.D. Cal.), a class action lawsuit filed on  
28



1 behalf of thousands of immigrants fleeing persecution who had faced months of  
2 detention while awaiting reasonable fear determinations.

3 34. In 2017, Ms. Iguina González was also counsel in *Youth Justice Coalition v.*  
4 *City of Los Angeles*, No. LA CV 16-07932-VBF, 2017 WL 396141, at \*1 (C.D.  
5 Cal. Jan. 27, 2017), a class action lawsuit filed on behalf of Angelenos whom police  
6 and prosecutors have unfairly subjected to restrictive “gang injunctions” without  
7 due process.

8 35. Ms. Iguina González previously held clerkships with Justice Sonia  
9 Sotomayor of the U.S. Supreme Court, Judge Kiyoo A. Matsumoto on the United  
10 States Court District Court for the Eastern District of New York, and Judge Stephen  
11 R. Reinhardt on the United States Court of Appeals for the Ninth Circuit.

12 36. Ms. Iguina González graduated magna cum laude from Harvard University  
13 and New York University School of Law, where she was a Root-Tilden-Kern  
14 Scholar, and was an Equal Justice Works Fellow. She is a member of the California  
15 and D.C. bars and is admitted to practice before numerous federal courts.

16 **Stephen B. Kang**

17 37. I graduated magna cum laude and Order of the Coif from the New York  
18 University School of Law in 2011, and clerked for Judge Kermit V. Lipez of the  
19 U.S. Court of Appeals for the First Circuit, and Judge Margaret M. Morrow (ret.) of  
20 the U.S. District Court for the Central District of California. I have been an attorney  
21 at ACLU IRP since 2013, where I currently serve as a Senior Staff Attorney.

22 38. I have served as counsel for plaintiffs in numerous systemic cases involving  
23 the rights of children in immigration custody. Apart from this case, my cases in this  
24 area are: *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (affirming  
25 preliminary injunction against unlawful arrest and detention of noncitizens based on  
26 flawed or unfounded gang allegations); *Duchitanga v. Lloyd*, 1:18-cv-10332  
27 (S.D.N.Y. filed Nov. 6, 2018) (challenging widespread and severe delays in release  
28 of children in government custody due to fingerprinting backlogs); *R.I.L.-R. v.*

1 *Johnson*, 80 F.Supp.3d 164 (D.D.C. 2015) (see supra). I have also represented  
2 amici on matters related to the custody of noncitizen children. *See Flores v.*  
3 *Sessions*, 862 F.3d 863 (9th Cir. 2017) (amicus counsel) (upholding rights of  
4 detained immigrant children to custody hearings).

5 39. I have also served as counsel in a number of other cases concerning the  
6 procedural rights of noncitizens—in particular, children—in the removal process.  
7 These cases include: *Hernandez-Galand v. Garland*, 996 F.3d 1030 (9th Cir. 2021)  
8 (argued) (reversing in absentia removal orders of mother and child); *Huisha-Huisha*  
9 *v. Mayorkas*, 27 F.4th 718, 721 (D.C. Cir. 2022) (see supra); *C.J.L.G. v. Barr*, 880  
10 F.3d 1122 (9th Cir. 2018) (en banc) (reversing removal order of unrepresented child  
11 for failure to advise of relief eligibility); *Damus v. Nielsen*, 313 F. Supp. 3d 317,  
12 329 (D.D.C. 2018) (granting preliminary injunction against categorical detention of  
13 asylum seekers); *Franco-Gonzalez v. Holder*, No. CV-10-02211 DMG DTBX,  
14 2014 WL 5475097 (C.D. Cal. Oct. 29, 2014) (see supra).

15 40. I have served as class counsel in *Saravia v. Sessions*, *Damus v. Nielsen*, and  
16 *R.I.L.R. v. Johnson*, among others.

17 41. I have unique expertise at the intersection of immigration law, the rights of  
18 children, and federal civil rights litigation. I am consistently called upon to provide  
19 technical assistance other lawyers and advocates concerning the due process rights  
20 of people facing removal, particularly those who are litigating federal court actions.

21 42. I have given CLE and other public presentations to attorneys concerning the  
22 rights of detained noncitizens and immigrant children. I also regularly speak to  
23 nonlegal audiences and the media regarding immigration and asylum policy.

24 **Daniel Antonio Galindo**

25 43. Daniel A. Galindo is a Senior Staff Attorney at the ACLU Immigrants'  
26 Rights Project. His experience includes immigrants' rights litigation in federal and  
27 state courts, and criminal defense in state courts.

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1 44. Mr. Galindo is a 2012 graduate of Stanford Law School and clerked for  
2 Judge Kermit V. Lipez of the U.S. Court of Appeals for the First Circuit, and Judge  
3 David O. Carter of the U.S. District Court for the Central District of California. He  
4 is a member of the New York and California bars and is admitted to practice at the  
5 Supreme Court, the U.S. Court of Appeals for the Ninth Circuit, and the U.S.  
6 District Courts for the Southern District of Texas, the Southern and Northern  
7 Districts of California, and the District of Columbia. He has been an attorney at  
8 ACLU IRP since 2018, and previously was a public defender at the Neighborhood  
9 Defender Service of Harlem.

10 45. Mr. Galindo has served as counsel in immigrants' rights cases before the  
11 Supreme Court, the U.S. Courts of Appeals for the Ninth, and D.C. Circuits, and in  
12 numerous district courts around the country, as well as state courts. Examples  
13 include: *Dep't of State v. Munoz*, 144 S. Ct. 1812 (2024) (amicus counsel of record)  
14 (addressing constitutional interests of a U.S. citizen the denial of a visa to her  
15 spouse); *Ramon v. Short*, 2020 MT 69, 399 Mont. 254, 460 P.3d 867 (argued) (no  
16 authority under state law for state officers to hold people on ICE immigration  
17 detainers); *Innovation L. Lab v. Wolf*, 951 F.3d 986, 987 (9th Cir. 2020) (see supra,  
18 re: "Migration Protection Protocols"); *A.I.I.L. v. Sessions*, 19-cv-00481-JAS (D.  
19 Az. filed Oct. 3, 2019) (damages action on behalf of separated immigrant families).  
20 Cases as class counsel include *P.J.E.S. by & through Escobar Francisco v. Wolf*, F.  
21 Supp. 3d 492 (D.D.C. 2020) (granting preliminary injunction against policy  
22 blocking unaccompanied minors' access to asylum, injunction later stayed and  
23 vacated as moot after government withdrawal of policy) and *Huisha-Huisha v.*  
24 *Mayorkas*, 27 F.4th 718, 721 (D.C. Cir. 2022) (see supra).

25 **Spencer Amdur**

26 46. Spencer Amdur graduated from Yale Law School in 2013 and clerked for the  
27 Honorable Judith W. Rogers of the United States Court of Appeals for the D.C.  
28 Circuit. He served multiple roles in the U.S. Department of Justice, both at the

1 Office of Legal Counsel and the Federal Programs Branch. He has litigated dozens  
2 of cases across the country and at every level of the judiciary involving the rights of  
3 noncitizens, immigration enforcement, and the asylum system.

4 47. Mr. Amdur is admitted to the bars of California and Pennsylvania, as well as  
5 the Second, Third, Fourth, Fifth, Seventh, Ninth, and Tenth Circuits, the Southern,  
6 Eastern, and Northern Districts of California, the Southern District of Ohio, and the  
7 Western District of Texas. He has been an attorney at ACLU IRP since 2017.

8 48. Apart from this case, Mr. Amdur has litigated numerous cases challenging  
9 large-scale federal policies toward refugees and asylum seekers. These include *East*  
10 *Bay Sanctuary Covenant v. Biden*, No. 23-16032 (9th Cir.) (argued) (challenge to  
11 Circumvention of Lawful Pathways asylum rule); *Trump v. East Bay Sanctuary*  
12 *Covenant*, 139 S. Ct. 782 (2018) (challenge to entry ban asylum rule); *East Bay*  
13 *Sanctuary Covenant II v. Barr*, 994 F.3d 962 (9th Cir. 2020) (amended Apr. 8,  
14 2021) (see *supra*, re asylum transit bar); *International Refugee Assistance Program*  
15 *v. Trump*, 883 F.3d 233 (4th Cir. 2018) (challenge to Muslim and refugee travel  
16 ban), *vacated by* 138 S.Ct. 2710 (2018).

17 49. In addition, Mr. Amdur has litigated dozens of cases asserting the rights of  
18 noncitizens in the United States, including *Travis County v. Texas*, 910 F.3d 809  
19 (5th Cir. 2018) (argued) (challenge to Texas immigration enforcement law); *El*  
20 *Cenizo v. Texas*, 890 F.3d 164 (5th Cir. 2018) (same); *New York v. U.S. Dep't of*  
21 *Justice*, 951 F.3d 84 (2d Cir. 2020) (argued as amicus) (challenge to federal policy  
22 requiring state officers to participate in immigration enforcement); *Gonzalez v. ICE*,  
23 975 F.3d 788 (9th Cir. 2020) (class action challenge to certain ICE detainer  
24 practices); *P.K. v. Tillerson*, 302 F. Supp. 3d 1 (D.D.C. 2017) (class action  
25 challenge to diversity visa lottery policy); *Farmworker Ass'n of Fla. v. Moody*, \_\_\_  
26 F. Supp. 3d \_\_\_, 2024 WL 2310150 (S.D. Fla. May 22, 2024) (argued) (challenge  
27 to state law barring migrant transport); *Las Americas Immigrant Advocacy v.*  
28 *McCraw*, No. 23A815 (U.S.) (challenge to state law regulating entry in the United

1 States); *United States v. Iowa*, 2024 WL 3035430 (S.D. Iowa 2024) (similar);  
2 *United States v. Oklahoma*, 2024 WL 3449197 (W.D. Okl. 2024) (similar); *United*  
3 *States v. Texas*, 586 F. Supp. 3d 574 (2022) (challenge to migrant transport law).  
4 50. Mr. Amdur regularly advises litigators around the country about litigation  
5 involving immigration matters, especially systemic challenges to immigration  
6 policies. He is frequently asked by reporters to explain immigration policy and  
7 litigation to non-legal audiences. He has also published academic articles about  
8 immigration law and litigation, including Spencer Amdur & David Hausman,  
9 *National Injunctions and Nationwide Harm*, 131 Harv. L. Rev. F. 49 (2017);  
10 Spencer Amdur, *The Right of Refusal: Immigration Enforcement and the New*  
11 *Cooperative Federalism*, 35 Yale Law & Pol’y Rev. 87 (2016).

12 I declare under penalty of perjury that to the best of my knowledge the above  
13 facts are true and correct. Executed on September 24, 2024, in San Francisco,  
14 California.

15  
16 /s/ Stephen B. Kang  
17 STEPHEN B. KANG  
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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

Ms. L, et al.,

Petitioners-Plaintiffs,

v.

U.S. Immigration and Customs  
Enforcement, et al.,

Respondents -  
Defendants.

Case No. 3:18-cv-428-DMS

**DECLARATION OF WILSON G.  
BARMAYER IN SUPPORT OF  
*DORA* PLAINTIFFS' REQUEST  
FOR AWARD OF ATTORNEYS'  
FEES**

**DECLARATION OF WILSON G. BARMAYER IN SUPPORT OF  
*DORA* PLAINTIFFS' REQUEST FOR AWARD OF ATTORNEYS' FEES**

I, Wilson G. Barmeyer, hereby declare and state:

1. I am a Partner at the law firm Eversheds Sutherland (US) LLP (“Eversheds Sutherland”) in Washington, D.C. and counsel for the *Dora* Plaintiffs in this litigation.
2. I make this Declaration based on personal knowledge and based on a reasonable review of records from the attorneys who worked with me on this case.
3. The *Dora* Plaintiffs are seeking recovery of reasonable attorney fees and expenses for the work performed in this case on the *Dora* claims, as a prevailing party.

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4. The request includes fees for time worked to prepare and file litigation, litigating the case through settlement in 2018, the filing of an amended complaint as part of settlement, the process for seeking approval of the 2018 class action settlement, and time worked on implementation of the *Dora* settlement, which included motion practice to enforce the settlement.
5. I have reviewed the time and expense records for Eversheds Sutherland, the Legal Aid Justice Center, and the National Immigration Project of the National Lawyers Guild for the legal work performed on the *Dora* claims. The hours were recorded contemporaneously and reflect the work performed.
6. Time records reflect that Eversheds Sutherland attorneys and paralegals worked a total of 1,439.4 hours from August 2018 through December 2023. Time worked by attorneys at the firm during that period included, *inter alia*, drafting motions and other court filings, negotiating with the Government, drafting regarding the settlement proposals, reviewing objections, legal research and other efforts to support the claims, gathering facts from named plaintiffs and other class members, assisting class members with their claims, preparing for hearings, and other work to litigate the case and implement the settlement.
7. Time records reflect that Legal Aid Justice Center Attorneys worked a total of 54.0 hours from June 2018 through July 2020.

- 1 8. Time records reflect that National Immigration Project of the National Lawyers  
2 Guild (NIPNLG) Attorneys worked a total of 134.1 hours.
- 3  
4 9. *Dora* Plaintiffs also incurred expenses in the amount of \$2,697.91 for filing  
5 fees, travel to a court hearing, and printing for communications to class  
6 members.
- 7  
8 10. After arms-length negotiation, Defendants have agreed to pay a total of  
9 \$301,729.93 in attorneys' fees and expense to the *Dora* Plaintiffs, which  
10 includes (1) \$299,032.02 for attorneys' fees for a total of 1627.5 hours worked  
11 from 2018-2023, and (2) expenses of \$2,697.91.
- 12  
13 11. The fee request and negotiation were based on statutory rates under the Equal  
14 Access to Justice Act pursuant to 28 U.S.C. § 2412 (d)(2)(A), calculated  
15 according to the formula set out in *Thangaraja v. Gonzales*, 428 F.3d 870, 876–  
16 77 (9th Cir. 2005). Applicable EAJA rates range from \$201.60 (in 2018) to  
17 \$244.62 (in 2023).
- 18  
19 12. The attorney fee request calculated based on EAJA rates is much lower than a  
20 comparable lodestar, which would be based on market rates. The fee request  
21 calculated under EAJA rates is less than 1/3 of the lodestar, if the total fees  
22 worked had been determined based on market rates.
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24 13. *Dora* counsel exercised billing judgment at several stages, including through  
25 a review and reduction of certain time entries and by agreeing to further  
26 reductions in negotiations with Defendants.
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14. The amount of attorneys’ fees and expenses requested have been agreed to by Defendants after negotiation. In February 2024, the *Dora* Plaintiff submitted a fee proposal to Defendants based on the documented hours worked, after review for billing judgment. Detailed records were provided for Defendants’ review. After a negotiated further reduction, on June 6, 2024, the *Dora* Plaintiffs and Defendants reached agreement in principle on the reasonable amounts.

15. After the reductions for billing judgment and negotiation with Defendants, *Dora* Plaintiffs request a total of \$301,729.93 in attorneys’ fees and expenses.

I declare under penalty of perjury under the laws of the District of Columbia that the above is true and correct to the best of my knowledge, information, and belief.

Executed on August 29, 2024 in Washington D.C.

Signed by:  
*Wilson G. Barmeyer*  
76EE64310671458...

Wilson G. Barmeyer