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[Sent via EOIR Courts & Appeals System (ECAS)/Filed In-Person]

[DATE]

Board of Immigration Appeals
Clerk's Office
5107 Leesburg Pike, Suite 2000
Falls Church, VA 22041

FEE WAIVER
REQUESTED FOR
DETAINED
RESPONDENT

Re: Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge
Form EOIR-26A, Fee Waiver Request

[LAST NAME, First Name]
A# [123-456-789]

To Whom It May Concern:

[Firm/Legal Services Nonprofit] represents [Name] (A# XXX-XXX-XXX) on his/her appeal and accordingly files the attached Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge. **Tabs A, C.**

On [Date], Immigration Judge [Name] at [City] Immigration Court ordered [Name] removed. **Tab G.** [Name] reserved appeal and is timely filing his/her EOIR-26. **Tab A.** [Name] files this EOIR-26 within thirty (30) days of the Immigration Judge's decision. **Tabs A, G.**

[Name], through undersigned counsel, timely files his/her Notice to Appeal and requests that the Board of Immigration Appeals ("BIA" or "the Board") (1) grant his/her filing fee waiver request and (2) issue a refund for the \$[Amount] that he/she paid on [Date].

In support of his/her filing, [Name] includes the following documents:¹

Tab A	Form EOIR-26, Notice of Appeal from a Decision of an Immigration Judge
Tab B	Form EOIR-26A, Fee Waiver Request
Tab C	Form EOIR-27, Notice of Appearance Before the Board of Immigration Appeals
Tab D	EOIR Payment Portal Filing Receipt of \$[Amount] paid [Date]
Tab E	Attorney Affirmation
Tab F	Respondent's Declaration
Tab G	Copy of Immigration Judge's Decision

¹ The order of documents conforms with BIA Practice Manual §3.3(c).

(1) [Name] merits a fee waiver of the \$1010 fee.

On July 3, 2025, Congress passed H.R. 1, which became Pub. L. 119-21, 139 Stat. 72 (“H.R. 1”) on July 4, 2025. The law provides, in relevant part, that the fee for filing of Appeal of a Decision of an Immigration Judge increases from \$110.00 to \$1,010 for fiscal year 2025 or “such amount as the Attorney General may establish, by rule.” This is an 818% increase from the \$110.00 fee, which has been in effect since 1986. *See* 51 Fed. Reg. 39,994 (Nov. 4, 1986). Further, respondents received very little notice of this forthcoming 818% increase. Congressman Jodey Arrington introduced H.R. 1 on May 20, 2025 and President Trump signed the bill on July 4, 2025. Therefore, respondents like [Name] received only 45-day notice of this 818% fee increase.

[Name] respectfully requests that the Board approve his/her fee waiver request. Public Law No. 119-21 does not affect the validity of the Executive Office for Immigration Review’s (EOIR) fee waiver request form, Form EOIR-26A. EOIR Policy Memorandum 25-36 at 2. Further, the guidance contained in EOIR Policy Memorandum 21-10 regarding practices for the adjudication of fee waiver requests remains valid. *Id.* EOIR Policy Memorandum 21-10 states, in part, that, “Each fee waiver request is assessed on its own merits, and EOIR has no policy directing the automatic grant or denial of a fee waiver request. IJs and AIJs retain independent judgment and discretion in assessing fee waiver requests.” EOIR Policy Memorandum 21-10 at 2. Thus, the BIA may still grant a fee waiver request for an appeal or motion filed with the BIA if a respondent can show that they are unable to pay the filing fee. *See* BIA Practice Manual §3.4(c)-(d). Here, the Board should grant [Name]’s fee waiver request because [Name] is currently detained and unable to generate income, and cannot afford the filing fee for the EOIR-26. **Tabs B, E-F.** [Discuss any family members and their reliance on the client as well as their ability/inability to assist with the fee].

Pursuant to the regulations, if a fee waiver request does not establish the inability to pay the required fee, the respondent will receive a rejection notice and the appeal or motion will be returned. However, the respondent will receive 15-days to re-file the rejected appeal or motion with the fee or new fee waiver request, and any applicable filing deadline will be tolled during the 15-day cure period. *See* 8 C.F.R. § 1003.8(a)(3). As such, if the Board does not grant [Name]’s fee waiver request, the BIA must toll the filing deadline for 15 days to allow him/her to cure the Notice of Appeal filing. *See* 8 C.F.R. § 1003.8(a)(3).

(2) The BIA should issue [Name] a \$110/\$1010 refund. [Only include this section if you already paid the incorrect fee of \$110/900.]

On [Date], the EOIR Payment Portal had not been updated to list the proper filing fee of \$1,010 for the EOIR-26; instead, the Portal only provided the option to pay [\$110/\$900] to file the EOIR-26. For that reason, [Name] paid the amount of [\$110/\$900] to file his/her EOIR-26 in the EOIR Payment Portal. **Tab D.** Whether the Board approves the fee waiver or [Name] pays the \$1,010, the Board should refund [Name]’s payment of [\$110/\$900] made on [Date]. *Id.* If the Board approves [Name]’s fee waiver request, the Board must return [Name]’s [\$110/\$900]. If the Board denies [Name]’s fee waiver request, [Name] must pay the full \$1010 fee through the online EOIR Payment Portal. Because partial payments are not allowed, [Name] is not allowed to pay

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only the difference. As such, the Board must return [Name]'s [\$110/\$900] if [Name] pays the \$1,010 fee.

If you have any questions, please contact me at [email address] or [phone number].

Sincerely,

[Name of Legal Representative]
[Law Firm or Legal Services Nonprofit]
Counsel for Respondent