

# **EXHIBIT 40**

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

KUSUMA NIO, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HOMELAND SECURITY, et al.,

Defendants.

Civil Action No. 1:17-cv-00998-PLF

**DECLARATION OF PLAINTIFF LUCAS CALIXTO  
IN SUPPORT OF PLAINTIFFS' MOTION FOR FEES, EXPENSES, AND COSTS**

I, Lucas Calixto, declare as follows:

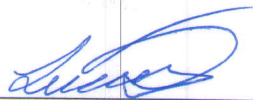
1. I am over 18 years of age and if called upon to testify to the facts set forth in this Declaration I could and would competently do so.
2. I am a named Plaintiff in the case *Nio v. U.S. Department of Homeland Security*. During 2017, I engaged attorneys Jennifer Wollenberg and Douglas Baruch, then of Fried, Frank, Harris, Shriver & Jacobson LLP ("Fried Frank"), to represent me and similarly-situated service members in a dispute arising from the U.S. government's unlawful policy of delaying and avoiding adjudicating the naturalization applications of soldiers who had enlisted in the U.S. Army through the Military Accessions Vital to the National Interest ("MAVNI") program.
3. Ms. Wollenberg and Mr. Baruch joined Morgan Lewis & Bockius LLP ("Morgan Lewis") in July 2019, and Morgan Lewis took over the litigation at that time. Fried Frank ceased to act as my counsel in this matter shortly thereafter.
4. I accepted my attorneys' offer to represent me on a *pro bono* basis, as I was not in a financial position to hire counsel on a fee service basis to represent me in this dispute.

Accordingly, I was not charged, and did not pay, for any of the legal services performed in connection with the litigation, or any of the expenses and costs incurred. Further, I have assigned to my attorneys all interest in any attorney's fees, expenses, or costs that may be recovered in this litigation.

5. At the time this action was filed in 2017, my net worth did not exceed \$2,000,000.

I declare under penalty of perjury that the foregoing is true and correct

Dated: December 25th, 2020



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Lucas Calixto