

LOCAL OPERATING PROCEDURES

IMMIGRATION COURT

DALLAS, TEXAS

BIG SPRING, TEXAS

Preamble. These rules are adopted under the authority of 8 C.F.R. § 3.40 for the purpose of facilitating the convenient, efficient, and orderly conduct of the business of the Immigration Courts at Dallas and Big Spring, Texas.

Procedure 1. Pre-Hearing Motions Practice

- In addition to complying with 8 C.F.R. § 3.23, written pre-hearing motions may be accompanied by a proposed order for signature by the Immigration Judge. Proposed orders must conform to the format contained in Appendix F of the Local Operating Procedures. All written pre-hearing motions will be decided on the basis of the existing record unless the Immigration Judge determines that oral argument is necessary to make a determination on the motion.
- The opposing party must file a response to written motions filed under this procedure or under 8 C.F.R. § 3.23 with the Immigration Court within ten (10) business days of being served in person or within thirteen (13) business days if served by mail. Upon order of the Court, for good cause shown, a different time may be set for responses to pre-hearing motions. All pre-hearing motions not responded to will be deemed unopposed under 8 C.F.R. § 3.23(a).
- Pursuant to 8 C.F.R. § 3.32(a), the parties must use a certificate of service that conforms to the format in Appendix E to the Local Operating Procedures.

Procedure 2. Continuances

Parties seeking a continuance of any scheduled hearing before an Immigration Judge shall file a written

motion for continuance no less than ten (10) business days prior to the scheduled hearing. The motion shall set forth the reason(s) for the continuance in accordance with 8 C.F.R. § 3.29. Unless notified by the Immigration Judge that the motion for continuance has been granted, all parties must attend the hearing and be prepared to proceed. Motions for continuance filed within the ten (10) business day period prior to the hearing will be considered only with the consent of the Immigration Judge, in his or her discretion, for good cause shown.

Procedure 3. Trial Preparation

A. At the Master Calendar hearing, the parties shall be prepared as follows:

- Respondent shall be prepared to respond to the allegations contained in the charging document.
- Respondent shall be prepared to indicate all applications sought for relief from removal.
- Respondent shall be prepared to state (in hours) the estimated time needed to present the case and if an interpreter will be required at the Individual Calendar hearing.
- The Immigration and Naturalization Service (INS) shall be prepared to state its position on all issues and applications for relief.

B. In lieu of a personal appearance at the Master Calendar hearing, a written pleading by the respondent containing the information in paragraphs A-1 through A-3, above, may be filed with the Immigration Court. The written pleading must be in compliance with the written pleading format in Appendix A of the Local Operating Procedures and must be accompanied by the attestation in Appendix B. When such a pleading is filed sufficiently in advance to be acted upon by the Immigration Judge, it may be coupled with a motion to waive presence at the Master Calendar hearing, pursuant to 8 C.F.R. § 3.25. See Appendix C. Such motion must be accompanied by a proposed order in compliance with Appendix D of the Local Operating Procedures. Where a respondent seeks to apply for asylum, a new Master Calendar date must be set for receipt of the application in Court in the event that the motion is granted. Unless an order granting waiver of personal appearance is signed by the Immigration Judge, the respondent's presence is not excused.

C. At the Individual Calendar hearing, both parties shall be prepared to present all remaining testimony and evidence on all issues, including rebuttal.

Procedure 4. General

All matters shall proceed at the date and time scheduled for hearing. Parties shall be prepared to go forward with their cases at that time.

Procedure 5. Filing Procedure

- In addition to complying with 8 C.F.R. §§ 3.31 and 3.32, all documents and applications submitted for consideration by an Immigration Judge shall be two-hole punched and centered at the top of the page with holes 2 3/4 inches apart. All exhibits and documents in support of a motion or claim shall be paginated and shall have as a first page, a table of contents with page number identification. The use of exhibit tabs with letter or number designations is recommended when necessary and is required for packets containing more than 20 pages.
- In addition to complying with 8 C.F.R. §§ 3.31 and 3.32, all proposed exhibits and briefs must be filed with the Immigration Court no later than ten (10) business days prior to the scheduled Individual Calendar hearing, unless otherwise authorized by the Immigration Judge.
- Furthermore, attorneys shall name all proposed witnesses they intend to bring to court and provide the witness' telephone number and a brief offering as to each witness' testimony, unless the witness is a respondent. All proposed witness lists, along with the offer must be filed with the Immigration Court no later than ten (10) business days prior to the scheduled Individual Calendar hearing, unless otherwise modified by the Immigration Judge, or where good cause is shown.

Procedure 6. Withdrawal/Substitution of Attorney/Representative

A. Pursuant to 8 C.F.R. § 3.17(b), withdrawal of attorney/representative shall be requested by a motion to withdraw addressed to the Immigration Judge to whom the matter is assigned, and shall set for the following:

1. The reason(s) for the request to withdraw;

- Evidence of the client's consent to withdraw, or a statement of why such consent is unobtainable.

3. The current or last known address of the client;

- A statement as to whether or not the client was advised of any currently scheduled hearings and, if not, the efforts made to contact and notify the client; and
- A statement that the client was served with a copy of the motion, or, if a copy of the motion was not served upon the client, a statement of reasons why such service was not possible or successful.
- Substitution of attorney/representative shall be requested by written or oral motion addressed to the Immigration Judge to whom the matter is assigned, accompanied by a Form EOIR-28 (Notice of Entry of Appearance of Attorney or Representative) completed by the attorney or representative to be substituted.
- There are no time limits for submission of motions to withdraw/substitute attorney/representative. However, the time remaining before the next hearing shall be taken into consideration along with the reasons given for the withdrawal/substitution.
- As regards motions to withdraw, an attorney or representative shall be considered counsel of record, for all purposes, unless and until the Immigration Judge issues an appropriate order, either in writing or orally on the record, granting the attorney or representative's motion to withdraw.

Procedure 7. Children

Due to space limitations and the need for orderly proceedings without noise or disturbances, any persons, including children, who are disruptive or noisy will be asked to leave the courtroom. The Court encourages other arrangements be made, when possible, for the care of young children, other than child respondents, when attending Court.

APPENDIX TO LOCAL OPERATING PROCEDURES

TABLE OF CONTENTS

- Written Pleading
- Attestation
- Motion to Waive Presence at Master Calendar Hearing
- Order Waiving Appearance, Setting Due Date of Applications, and Setting Trial Date
- Certificate of Service
- Proposed Order Format

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DALLAS, TEXAS
(Hearing held at _____)

In the Matter of:) File No.: _____

)

Respondent) WRITTEN PLEADING

- Respondent, through counsel, concedes proper service of the Notice to Appear dated _____.

- Attorney for the respondent has explained:

- ☒ the rights set forth in 8 C.F.R. § 240.10(a) and INA § 240(b)(4).
- ☒ the consequences of failing to appear in Court as set forth in INA § 240(b)(5).

- Respondent concedes the following allegation(s) _____, and denies the following allegation(s) _____.
- Respondent concedes the following charge(s) of inadmissibility / removability _____, and denies the following charge(s) of inadmissibility / removability _____.
- In the event of removal, respondent names _____ as the country to which removal should be directed.
- As relief from removal, respondent will be filing application(s) for _____. The application(s) shall be filed with the Court within thirty (30) days of the date of this written pleading, unless otherwise directed by the Court. Respondent acknowledges that if the application(s) are not timely filed, the application(s) shall be deemed waived under 8 C.F.R. § 3.31(c).
- Counsel for the respondent estimates that ___ hour(s) shall be required to present the case.
- It is requested that a(n) _____ language interpreter be provided.

Date Attorney/Representative For Respondent

APPENDIX A

ATTESTATION

File No. _____

I, _____, attest to my full knowledge and understanding of my rights set forth in section 240(b)(4) of the Immigration and Nationality Act and 8 C.F.R. § 240.10(a). I waive a further explanation of such rights by this Court.

Further, I understand the consequences of failing to appear for a removal hearing or a scheduled date of departure. I knowingly and voluntarily waive the oral notice required by sections 240(b)(7) and 240(c)(4) of the Immigration and Nationality Act. Alternatively, I authorize this waiver by my attorney/representative.

Finally, I understand that in accordance with 8 C.F.R. § 3.15(d), if my address changes, I must notify the Court within five (5) days of such change by completing the EOIR-33 form and mailing it to the Court.

Date Respondent

APPENDIX B

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DALLAS, TEXAS

(Hearing held at _____)

In the Matter of) File No.: _____

)

Respondent.) In (Please Specify Type)

_____) Proceedings

Motion to Waive Appearance at Master Calendar Hearing

Upon completing and timely submitting the Written Pleading, consistent with the Written Pleading format for this Court, the respondent, through counsel, requests a waiver of his/her appearance and the appearance of counsel at the Master Calendar hearing scheduled for

_____.

Date Attorney/Representative for

Respondent

APPENDIX C

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DALLAS, TEXAS

(Hearing held at _____)

In the Matter of) File No.: _____

)

Respondent.) In (Please Specify Type)

_____) Proceedings

ON BEHALF OF INS: ON BEHALF OF RESPONDENT:

ORDER

Upon receipt of Motion to Waive Appearance and the Written Pleading consistent with Local Operating Procedure 3, the respondent's Motion to Waive Appearance at Master Calendar Hearing is granted. The application(s) for relief must be filed within _____ days of this order, or, in the event the respondent seeks to apply for asylum, such application must be filed at the new Master hearing scheduled below.

The case is scheduled for an Individual hearing / new Master hearing for the _____ day of _____, _____ at _____ a.m. / p.m., at _____. Service of documents, notice of special language requirements, and proposed list of witnesses must be filed with the Court in accordance with the Local Operating Procedures.

DONE AND ORDERED this _____ day of _____, _____.

IMMIGRATION JUDGE

APPENDIX D

CERTIFICATE OF SERVICE

CASE NAME: _____

FILE NO.: _____

I HEREBY CERTIFY that on this ____ day of _____, _____, I caused to be served the following: (describe documents) _____

_____ by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid and causing the same to be mailed by first class mail to the person at the address set forth below.

_____ by causing to be personally delivered a true copy thereof to the person at the address set forth below.

_____ by OVERNIGHT EXPRESS MAIL SERVICE to the person at the address set forth below.

_____ by certified mail-return receipt requested to the person at the address set forth below.

_____ by faxing with acknowledgment of receipt to the person at the address set forth below.

NAME AND ADDRESS OF THE PERSON BEING SERVED:

I hereby declare that the forgoing is true and correct. Executed on _____, _____.

/S/

APPENDIX E

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
DALLAS, TEXAS
(Hearing held at _____)

In the Matter of) File No.: _____

)

Respondent.) In (Please Specify Type)

_____) Proceedings

ON BEHALF OF INS: ON BEHALF OF RESPONDENT:

ORDER

(INSERT BODY OF THE ORDER)

DONE AND ORDERED this ____ day of _____, _____.

Immigration Judge

APPENDIX F