

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MEMPHIS, TENNESSEE**

Local Operating Procedures

Preamble:

These procedures are adopted pursuant to 8 C.F.R. § 3.40 for the purpose of facilitating the convenient, efficient, and orderly conduct of proceedings within the jurisdiction of the Immigration Court of Memphis, Tennessee. The procedures set forth in these rules shall not diminish the Immigration Judge's authority to order a deadline and procedure to be followed in a specific case or to waive a requirement or deadline upon a showing of emergent circumstances, exigent circumstances, or good cause.

Procedure 1. Pre-Hearing Motions Practice

- A. In addition to complying with 8 C.F.R. § 3.23, all written pre-hearing motions shall be accompanied by a proposed order for signature by the Immigration Judge. Proposed orders must conform to the format contained in Appendix A of the Local Operating Procedures. All written pre-hearing motions will be decided on the basis of the written record unless the Immigration Judge determines that oral argument is necessary to make a determination on the motion.
- B. A written motion under this procedure or under 8 C.F.R. § 3.23 must be responded to by the opposing party within **ten (10) working days** of being served in person or within **fifteen (15) working days** of service by other means. The response must be filed with the Immigration Court in Memphis, Tennessee. Upon order of the Immigration Court, the standard response time to pre-hearing motions may be extended if the Immigration Judge determines that good cause has been shown. All pre-hearing motions not responded to within the time specified will be deemed unopposed under 8 C.F.R. § 3.23(a).
- C. Pursuant to 8 C.F.R. § 3.32(a), the parties must use a certificate of service that conforms to the format in Appendix B of the Local Operating Procedures.

Procedure 2. Continuances

In accordance with 8 C.F.R. § 3.29, parties seeking a continuance of any scheduled hearing

before an Immigration Judge shall file a written motion for continuance no less than **fifteen (15) working days** prior to the scheduled hearing. The motion shall set forth the reason(s) that the continuance is requested. 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 within the fifteen (15) day period prior to the hearing will be considered only with the consent and in the discretion of the Immigration Judge for good cause shown. Counsels are encouraged to seek agreement on continuances prior to submitting the motion.

Procedure 3. Trial Preparation

- A. At the Master Calendar hearing, the parties shall be prepared as follows:
 - 1. Respondent shall be prepared to respond to the allegations contained in the charging document.
 - 2. Respondent shall be prepared to indicate all applications sought for relief from immigration proceedings.
 - 3. 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.
 - 4. The Immigration and Naturalization Service (INS) shall be prepared to establish respondent's deportability/removability or to contest the applicant's admissibility and 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 C of the Local Operating Procedures. When such a pleading is filed no less than ten (10) working days prior to the scheduled master calendar, it may be joined with a motion to waive presence (appendix D) at the Master Calendar hearing pursuant to 8 C.F.R. § 3.25. Such motion and written pleading must be accompanied by a proposed order in compliance with the order format in Appendix E of the Local Operating Procedures. Unless such order 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 testimony and evidence on all issues, including rebuttal.

- D. 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 4. Filing Procedure

- A. Pursuant to 8 C.F.R. § 3.13 applications, documents, and other materials submitted for consideration by the Immigration Court are considered to be received upon the placement of the Immigration Court stamp 'received' thereon; this may be at the public window of the Immigration Court, during regular hours as posted, or as otherwise ordered by the presiding judge. Items left unattended at the public window are not considered as having been received until they have been stamped as received by the Immigration Court. Filing may be accomplished in person, by mail, or by other delivery service.
- B. 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 at the top of the page with holes 2 3/4 inches apart. All motions, 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. If more than one document is submitted within an exhibit, each document shall be tabbed on the right side commencing with the letter "A." When background documents of more than five pages are submitted, the documents shall be highlighted or otherwise bring attention to the portions that specifically pertain to the respondent/applicant.
- C. 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) working days** prior to the scheduled Individual Calendar hearing, unless otherwise authorized by the Immigration Judge, or where good cause is shown.
- D. Attorneys shall name all proposed witnesses and provide a brief offering as to each witness' testimony. All proposed witness lists, along with the offer must be filed with the Immigration Court no later than **ten (10) working days** prior to the scheduled Individual Calendar hearing, unless otherwise modified by the Immigration Judge, or where good cause is shown.

Procedure 5. Courtroom Behavior

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 when attending court

APPENDIX TO LOCAL OPERATING PROCEDURES

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APPENDIX B- Certificate of Service

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Memphis, Tennessee

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 declare under penalty of perjury that the forgoing is true and correct. Executed on

_____, _____.

/S/

Date

Attorney/Representative
For Respondent

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.

I have been advised of, and understand, the consequences of knowingly filing a frivolous asylum application pursuant to INA § 208(d)(6).

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) 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 filing it with the Court.

Date

Respondent

APPENDIX D- Motion to Waive Presence

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Memphis, Tennessee

In the Matter of)
)
Respondent.)
_____)

File No.: _____

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 E- Ordering Waiving Appearance, etc.

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
Memphis, Tennessee

In the Matter of)
)
Respondent.)
_____)

File No.: _____
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.

The case is scheduled for an individual hearing for the _____ day of _____, _____ at _____ a.m. / p.m., at _____. Service of documents, 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