

LOCAL OPERATING PROCEDURES
IMMIGRATION COURT
SAN FRANCISCO, CALIFORNIA

(EFFECTIVE OCTOBER 15, 2001)

General

These procedures are adopted under 8 C.F.R. section 3.40 for the purpose of facilitating the convenient and orderly conduct of the business of the Immigration Court, San Francisco, California. An Immigration Judge shall have the discretion to relax the applicability of these procedures in the case of a party not represented by an attorney or authorized representative.

Procedure 1: Readiness

(a) All matters set for hearing before an Immigration Judge shall proceed at the time and date scheduled for hearing. Parties shall be prepared to go forward with their cases at the appointed time.

(b) No case shall be set for an individual hearing to a date within fourteen (14) days after the master calendar hearing, except for good cause, unless the fourteen (14) day delay would prevent the Court from completing an expedited asylum case within 180 days.

Procedure 2: Filing Procedure and Form of Documents Generally

(a) With the exception of the applications mentioned in Procedure 2(b), all documents (including proposed exhibits, correspondence, motions, briefs, and other pleadings) and applications shall be filed (1) at the public window in the Immigration Court during regular business hours as posted in the Immigration Court; (2) by first class mail or by private mail service; or (3) as otherwise ordered by an Immigration Judge. All documents and applications shall be accompanied by a certificate of service on the opposing party. Documents and applications submitted to the Immigration Court by first class mail or private mail service shall be deemed filed as of the date of receipt at the Immigration Court. See 8 C.F.R. section 3.13.

(b) All applications for asylum under section 208 of the Immigration and Nationality Act, all applications for withholding of deportation under former section 243(h) of the Act (as in effect for deportation and exclusion proceedings commenced before April 1, 1997), and all applications for restriction on removal (withholding of removal) under section 241(b)(3) of the Act (as in effect for all removal proceedings commenced on or after April 1, 1997), shall be filed in open court at a master calendar hearing which the Immigration Judge has designated for that purpose. All such applications shall be filed as an original and one full photocopy.

(c) Every submission shall bear a clear short statement of purpose. It shall also bear the name of the Judge to whom the case is assigned (if this information has been provided to the

respondent/applicant), the A number of the respondent/applicant, and the date and time of the next scheduled hearing in the matter.

(d) In addition to complying with 8 C.F.R. sections 3.31 and 3.32, all documents shall be of a page size of eight and one-half by eleven inches and shall be two-hole punched at the top of the page and paginated and/or marked with exhibit tabs with letter designations. All photocopied documents shall be reproduced and submitted as single-sided reproductions only. All submissions over ten (10) pages in length shall have a table of contents. The table of contents shall refer to the page number identification at the beginning thereof, or the letter designations of tabbed exhibits.

(e) Every pleading, motion, brief, or other document submitted on behalf of a party represented by an attorney or authorized representative shall be signed by such attorney or representative in his or her individual name and shall contain the address and telephone number of such attorney or representative.

(f) A party who is not represented by an attorney or authorized representative shall sign his or her own pleading, motion, or other document and shall include thereon his or her complete address and telephone number.

Procedure 3: Timely Filing of Hearing Briefs, Exhibits, and Witness Lists

(a) In addition to complying with 8 C.F.R. sections 3.31 and 3.32, all pre-hearing briefs and proposed exhibits shall be filed with the Immigration Court at the time set by the Immigration Judge or, if the Immigration Judge does not set such a date, no later than fifteen (15) calendar days before the scheduled Individual Calendar hearing, unless specifically permitted by the Immigration Judge. Except for good cause shown, an Immigration Judge will not consider materials that are not timely submitted as in this Procedure. This Procedure shall not apply to exhibits which are to be submitted solely for purposes of rebuttal and/or impeachment.

(b) Attorneys shall name all proposed witnesses that they intend to bring to a hearing and provide a brief summation of the subject matter of each witness' expected testimony and the proposed length of the witness' testimony. The witness list shall indicate prominently whether any witness requires interpretation, and, if so, in what language. All proposed witness lists, along with the summations, shall be filed within the same time period applicable to briefs and exhibits as noted in the foregoing paragraph (a). Except for good cause shown, the testimony of a witness who has not been listed shall not be heard. This procedure shall not apply to witnesses whose testimony is offered solely for the purpose of rebuttal and/or impeachment.

(c) Substantive exhibits shall be submitted separately from general background exhibits. Both substantive and background exhibits shall be indexed with page numbers and/or letter designations marked by tabs as required in Procedure 2(d). Additionally, background exhibits shall be paginated and the index to such exhibits shall note the source of each exhibit and contain a brief summary of the relevant portions of each exhibit's content. The summarized relevant portions may also be highlighted or underlined, provided that the copy of the documents is similarly highlighted or underlined. Photocopies of substantive exhibits shall be submitted as single-sided copies only.

Photocopies of voluminous background exhibits may be submitted as double-sided copies in the “flipped on short edge” format, so that the reverse side of the document can be read by simply flipping over the back side of document.

Procedure 4: Withdrawal and Substitution of Attorneys

(a) Withdrawal of representation is by permission of the Immigration Judge assigned to the matter in question. Withdrawal of representation shall be requested by written or oral motion to withdraw addressed to the Immigration Judge. See 8 C.F.R. section 3.17(b). The motion shall set forth:

1. A general statement of the reason(s) for the request to withdraw, without violating the attorney-client privilege;
2. That a good faith effort was made to find alternative representation for the client, reciting the specific efforts made; or that a list of legal services programs and organization was provided to the client;
3. The current or last known address of the client;
4. All efforts made to notify the client of the motion to withdraw; and
5. That the client has been notified of all outstanding deadlines in the case and of the date, time, and place of the next scheduled hearing before the Immigration Judge; of the necessity of meeting deadlines and appearing at scheduled hearings; and of the consequences of failure to meet deadlines or to appear at scheduled hearings.

(b) Substitution of representation shall be requested by written or oral motion accompanied by Notice of Entry of Appearance on Form EOIR-28 completed by the attorney or authorized representative to be substituted in. See 8 C.F.R. section 3.17. Substituted counsel shall also submit verification that notice of the substitution has been served on former counsel. Substituted counsel should expect to proceed to hearing as previously scheduled.

Procedure 5: Motions for Continuances

(a) In addition to complying with 8 C.F.R. section 3.23(a), a request for a continuance of any scheduled hearing shall be upon written motion supported by affidavit or declaration under penalty of perjury setting forth in detail the nature of the request and the reasons therefor. The motion shall include the date and time of the scheduled hearing, the alien’s name and A number, and, if known, the name of the Immigration Judge before whom the matter is set.

(b) Any motion for continuance shall include a statement as to whether there is opposition by the opposing party.

(c) A request for a continuance may be denied unless all the information required in Procedure 5(a) and 5(b) is provided.

(d) The request shall be filed with the Immigration Court not later than thirty (30) days before the date of a scheduled Individual Calendar hearing and not later than fifteen (15) calendar days

before the date of a scheduled Master Calendar hearing. Motions that do not comply with the time limits set forth will be considered only in the event of an emergency or other demonstration of good cause.

(c) The pendency of a motion for continuance does not excuse appearance at any scheduled hearing addressed by the motion unless so indicated by the Immigration Judge.

Procedure 6: Motions to Change Venue

(a) In addition to complying with 8 C.F.R. sections 3.20 and 3.23(a), a pre-pleading motion for change of venue shall contain a statement whether the respondent/applicant admits or denies the factual allegations and charge(s) in the charging document; the respondent's designation of a country in the event of deportation or a declination to designate such a country; the relief, if any, which the respondent/applicant will be requesting of the Immigration Judge. All motions for change of venue must state the date and time of any scheduled hearing; the name of the Immigration Judge before whom the matter is pending; and a clear and detailed statement of the reasons for the request. The motion shall also contain a statement as to whether there is opposition by the opposing party.

(b) Motions to change venue must be filed at least thirty (30) days before the date of a scheduled Individual Calendar hearing and at least fifteen (15) days before a scheduled Master Calendar hearing. Motions that do not comply with the time limits set forth will be considered only in the event of an emergency or other good cause shown.

(c) The pendency of a motion to change venue does not excuse appearance at the scheduled hearing addressed by the motion unless so indicated by the Immigration Judge.

(e) Nothing in this procedure shall be construed to inhibit the Immigration Judge's authority to waive the provisions of this rule to address expeditiously motions to change venue in custody cases or in cases in which a change of venue would be in the interests of the administration of justice.

Procedure 7: Opposition to Motions Generally

In accordance with 8 C.F.R. section 3.23(a), any party opposing a motion (other than motions to continue or to change venue before Master Calendar hearings, as provided in Procedures 5 and 6), served in accordance with 8 C.F.R. section 3.13, shall file with the Immigration Court a written response to the motion no later than **thirteen (13)** days after the service of the motion, unless an Immigration Judge has specifically set an alternate time limit.

Procedure 8: Failure to Make Required Filings

(a) All applications shall be filed in accordance with the federal regulations. Applications filed after any deadline set by the Immigration Judge shall be dealt with as set forth in 8 C.F.R. section

3.31.

(b) A failure to abide by a briefing schedule set by an Immigration Judge may be construed as a waiver or concession of the matter(s) in question.

Procedure 9: Counsel's Change of Address

If an attorney or authorized representative in any matter pending before an Immigration Judge changes address, he or she shall advise the Immigration Court by a written notification solely and specifically for that purpose.