

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



LOCAL OPERATING PROCEDURES

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 Court in San Antonio, Texas (“the Court”). These rules govern the procedures within the jurisdiction of the Immigration Court in San Antonio, Texas, including Eden, Laredo, and San Antonio detained dockets.

PROCEDURE 1: GENERAL

- A. All matters shall proceed at the time and date scheduled for hearing. All parties shall be prepared to go forward with their cases at that time.
- B. Photocopying is not provided by the Court for either party.
 - 1. All legal representatives shall have their routinely submitted documents, e.g., Notice of Entry of Appearance (Form EOIR-28), Change of Address (Form EOIR-33), etc., properly and fully completed and duplicated prior to the case being called on the docket.
 - 2. All attorneys representing the Immigration and Naturalization Service shall have documentation in support of allegations on charging documents for which the Service has by statute or regulation the burden of proof, e.g., Record of Deportable/Inadmissible Alien (Form I-213), records of convictions, and terminations of status or parole, etc., duplicated, and certified if appropriate, prior to the case being called on the docket.
- C. Failure to comply with these procedures may result in the submission or issue in question being found or ruled conceded, denied, evidentiary weight diminished, rejected, and/or waived against the party failing to comply.
- D. The procedures set forth herein shall not diminish the Immigration Judge’s discretion to order a deadline and procedure be followed in a specific case or to waive a requirement or deadline upon a showing of emergent circumstances, exigent circumstances, or good cause.

- E. If a legal representative in any matter before the Court changes office address or phone number, the Court Administrator shall be advised by a written notification solely and specifically for that purpose within ten (10) days of any such change. In addition, a new Notice of Entry of Appearance (Form EOIR-28) reflecting the new address or phone number must be filed for each pending case.

PROCEDURE 2: GENERAL FILING PROCEDURE

- A. Unless required to file in open Court, the filing of materials with the Court may be accomplished in person at the reception window during the regular business hours as posted by the Court, by mail, or by other delivery service. No receipt or filing by facsimile is authorized, except by permission of the Immigration Judge or as authorized by the Office of the Chief Immigration Judge.
- B. In all consolidated cases, there shall be submitted a separate copy of each submission for placement in each individual Record of Proceeding. However, a "master exhibit" may be filed in the lead individual's file for supporting documentation applicable to more than one individual. The applicable individual's name and A-file number shall be prominently displayed on each submission.
- C. Promulgated application forms and any Notice of Appearance (Form EOIR-28) shall not be included as an item in an indexed, tabbed, and paginated exhibit.
- D. An identical copy of all written materials filed with the Court shall be served on the opposing party and such shall be in the same identical format, i.e., with the same index, pagination, tabbing, and any emphasis placed on a document by highlighting, etc.
- E. All documents must be legible. Copies which are so poor in quality as to be illegible may be either returned to the submitting party and not included in the Record of Proceedings or not admitted into evidence.
- F. A document smaller than 8 ½" x 11", shall be affixed to an 8 ½" x 11" size blank sheet of paper or enlarged to 8 ½" x 11". If the document is larger than 8 ½" x 11", it must be reduced in size by photocopying or other appropriate means as authorized by the Immigration Judge. An exception may be made for a document whose size cannot be altered without altering its authenticity.

- G. A properly executed certificate of service on the opposing party shall be the last page of each submission, and it shall specifically describe the submission (except as to promulgated forms). A certificate of service contained in a promulgated form shall be properly executed. For items served by mail on the INS, the certificate of service shall indicate the submission was sent to: Immigration and Naturalization Service, Trial Litigation Unit, P.O. Box 1939, San Antonio, TX 78297-1939. For items served personally on the INS, the certificate of service shall indicate that the submission was served on a named individual or to the Trial Litigation Unit. For items served by overnight express service on the INS, the certificate of service shall indicate the submission was sent to: Immigration and Naturalization Service, Trial Litigation Unit, 8940 Fourwinds Drive, San Antonio, TX 78239.
- H. All submitted written materials shall be two-hole punched at the top and center of the page with holes 2 3/4" apart.
- I. The parties are responsible for insuring that applications and supporting documents that were previously filed with the Service, and which are being pursued before the Court, are appropriately and timely filed with the Court prior to the merits hearing, in accordance with the respective statutory and regulatory burdens. Accordingly, the parties are encouraged to communicate with each other to ensure compliance with this rule.
- J. All applications, documents, and motions requiring payment of a fee shall be accompanied by a fee receipt from the Immigration and Naturalization Service (unless it indicates on its face that the fee was paid), or by an application for a fee waiver pursuant to 8 C.F.R. § 3.24, except as provided in 8 C.F.R. § 240.11(f).

PROCEDURE 3: SUPPORTING DOCUMENT FILING PROCEDURE

All written materials in support of any application, brief, or motion shall be filed as follows:

- A. Indexed, as to multiple documents with each separately listed, and showing both the respective first page number and tab letter; and
- B. Paginated, by consecutive number placed at the bottom center or right hand corner of each page, commencing with the numerical designation "1" on the first page of the index, increasing sequentially for each page of every document, and continuing through the last page which shall be the certificate of service; and
- C. Tabbed, as to multiple documents either for each separate listing or related grouping, placed on the right-hand side of the page, commencing with the letter designation "A", located beginning at the upper right-hand corner of the page,

extending beyond the edge of the page, and descending sequentially to the bottom of the right-hand side of the page.

PROCEDURE 4: TIME RESTRICTIONS

- A. All submissions, i.e., applications, briefs, documents, etc.—except for impeachment purposes—must be filed by the date ordered by the Immigration Judge, except as otherwise provided by 8 C.F.R. § 3.23.
 - 1. If no date has been ordered by the Immigration Judge, all submissions must be filed no later than fifteen (15) days prior to the scheduled hearing, unless otherwise authorized by the Immigration Judge.
 - 2. If a submission is offered after the expiration of the filing deadline, or within fifteen (15) days of the date of the hearing if no deadline was set, the submission will not be accepted unless supported by a declaration of counsel (or, if not represented, by a declaration of the unrepresented party) that the submission is material and was not available and could not have been discovered or presented by the filing deadline.
- B. All motions shall be filed with the Court no later than twenty (20) days prior to the scheduled hearing, in order to provide an opportunity for a timely reply.
- C. A response to any motion shall be filed with the Court no later than ten (10) days following the date of service. The Court does not solicit replies to motions.

PROCEDURE 5: WRITTEN MOTIONS IN GENERAL

- A. Except as filed by unrepresented respondents/applicants, a “letter” format is unacceptable and, thus, all written motions shall be in a “legal-motion” format containing:
 - 1. Caption identifying the:
 - a. Immigration Court;
 - b. Name of the respondent/applicant;
 - c. A-file number;
 - d. Type of proceedings (e.g., deportation, exclusion, removal, etc.);
 - e. Assigned Immigration Judge;
 - f. Type of hearing (i.e., master calendar or merits); and
 - g. Scheduled hearing date and time.

NOTE: All of the above information is available by calling 1-800-898-7180 and providing the A-number of the respondent/applicant.

2. Title of the motion, plus a phrase that it is or is not an agreed motion;
 3. Text specifying reasons for the motion;
 4. Date;
 5. Signature, or signatures if an agreed motion; and
 6. Certificate of service.
- B. Where appropriate, all motions shall be supported by affidavit or other evidence.
- C. Unless a written motion has been granted by the Immigration Judge, all parties shall be present and be prepared to proceed with the hearing as scheduled. The parties are urged to seek agreement on all motions prior to filing such with the Court.

PROCEDURE 6: MOTIONS FOR WITHDRAWAL OR SUBSTITUTION OF REPRESENTATION

- A. All written motions for withdrawal of representation shall state:
1. The reason(s) for the withdrawal;
 2. That the client was notified in writing of the motion to withdraw, which notification shall be attached to the motion;
 3. The notification to the client shall include the:
 - a. Date of any scheduled deadlines and hearing(s) before the Immigration Judge;
 - b. Necessity of appearing at such hearing; and
 - c. Consequences of failure to appear;
 4. Evidence of the respondent's/applicant's consent to withdraw or a statement of why evidence of such consent is unobtainable; and
 5. The last known address and phone number of the respondent/applicant.

- B. All written motions for substitution of representation shall be accompanied by:
 - 1. A Notice of Appearance (Form EOIR-28) for the substituting legal representative; and
 - 2. A statement that the prior legal representative has been notified of the impending substitution.
 - 3. If substitution is by a member of the same office or the appearance is only as co-legal representative without change as to the legal representative of record, no written motion is required.

PROCEDURE 7: MOTIONS FOR STAY

- A. The Court strongly urges that any written motion for stay be filed with the Court separate and apart from any other motion, e.g., motion to reopen, etc.
- B. A motion for stay that is not separately filed, in addition to complying with these Local Operating Procedures, shall include:
 - 1. In prominent letters in the title of the motion the words “MOTION FOR STAY”;
 - 2. The stay shall be specifically addressed in a separately titled section of text; and
 - 3. A separate request for stay shall be stated in the prayer/conclusion of the motion.

PROCEDURE 8: NOTICE OF APPEARANCE

In addition to complying with 8 C.F.R. § 3.17(a), an original, promulgated Notice of Entry of Appearance (Form EOIR-28) shall be accurately and fully completed and separately filed with the Court for each individual being represented. It shall not be included

as a part of supporting materials. In any consolidated matter, there shall be a separate Form EOIR-28 for each individual Record of Proceeding.

PROCEDURE 9: COURTROOM DECORUM

- A. Prior to entering the Court, legal representatives and INS counsel shall have informed their clients, witnesses, and spectators of what is acceptable, proper, and respectful behavior and manner of appearance in the Court.
- B. Due to space limitations, the lack of child care facilities, 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 or the immediate area outside of the courtroom. The Court encourages other arrangements be made, when possible, for the care of young children, other than for a child respondent/applicant whose appearance is required in the Court.
- C. No food, drinks, or chewing of gum are allowed inside the courtroom, unless specifically authorized by the Immigration Judge.
- D. All electronic equipment, e.g., cellular or wireless phones, alarm watches, pagers, computers, etc., shall be turned off or silenced prior to entering the courtroom and shall remain so.
- E. There shall be no conversation or discussion in the courtroom, except for appropriate communication between the legal representative and client whose case is then before the Immigration Judge. All other conversations or discussions shall be conducted outside of the Courtroom, unless authorized by the Immigration Judge. All verbal argument, comments, and statements made during proceedings shall be directed to the Immigration Judge.