

Master Calendar Hearings in Immigration Court Proceedings: A Legal Research Report

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FINDINGS

MASTER CALENDAR HEARINGS IN IMMIGRATION COURT PROCEEDINGS: A COMPREHENSIVE LEGAL RESEARCH REPORT

Executive Summary

Key Findings: Master Calendar Hearings (MCHs) serve as the foundational procedural stage in removal proceedings under the Immigration and Nationality Act (INA), functioning as administrative conferences where immigration judges address pleadings, scheduling, and relief designation rather than substantive merits determinations.[1][8] While MCHs generally do not result in removal orders, significant legal consequences can attach to this stage, including in absentia removal orders upon non-appearance, waiver of certain defenses through inadequate pleadings, and pretermission of applications for relief that fail to establish prima facie eligibility.[1][18] The respondent must personally appear regardless of counsel representation, and counsel must enter appropriate pleadings addressing both the factual allegations and legal charges in the Notice to Appear (NTA), while simultaneously designating forms of relief being pursued.[1][8]

Client Risk Assessment: The risk profile at the MCH stage is primarily procedural rather than substantive. Moderate to high risk attaches to non-appearance (resulting in automatic removal in absentia), inadequate or untimely filing of relief applications (resulting in deemed abandonment), and failure to preserve claims for appeal through proper record-building.[5][37] Medium risk arises from defective NTAs or service issues that may require strategic response.[27][53] Low to medium risk characterizes substantive determinations at this stage, as the immigration judge typically does not adjudicate the merits of removal or relief claims at MCH.

Primary Strategic Decision Framework: Counsel should evaluate MCH strategy along three critical vectors: (1) whether to concede or contest removability based on documentary evidence and legal sufficiency of charges; (2) whether to designate asylum, withholding of removal, Convention Against Torture (CAT), cancellation of removal, voluntary departure, or other relief; and (3) whether to request sufficient continuances and hearing time to adequately prepare the merits case. Each choice carries distinct timing implications, appeal preservation consequences, and impacts on employment authorization eligibility (particularly relevant for asylum applicants subject to the asylum clock).[1][46][59]

Timeline and Deadline Considerations: The respondent must be afforded at least ten days between service of the NTA and the initial MCH, though this may be waived.[1][8] For represented respondents, the filing of a Form EOIR-28 (Notice of Entry of Appearance as Attorney or Representative) at least fifteen days before the MCH will typically result in case vacation and substitution of a written pleading schedule, with approximately thirty days for pleadings and twenty days for responsive filings.[56] The case then moves to an Individual Calendar Hearing (merits hearing) typically scheduled four to eighteen months in the future.[2] At the MCH, counsel must also address the asylum clock if asylum is being pursued, as this administrative clock begins when the asylum application is filed and directly impacts employment authorization eligibility at 180 days.[46][59]

Likelihood of Success Assessment: High confidence that MCH will not result in substantive removal order if respondent appears and enters appropriate pleadings (approximately 92% of respondents in removal proceedings receive no in absentia removal orders over a three-year period).[5] High to medium confidence that properly designated relief will proceed to merits hearing stage for adjudication. Low to medium confidence in pretermission arguments if applications fail to establish prima facie eligibility, though recent BIA precedent requires strict adherence to statutory and regulatory procedures before pretermittting relief.[18]

Medium confidence that defects in the NTA can be remedied through immigration judge amendment upon DHS motion, though respondents retain rights to object to non-compliant charging documents.[27][53]

Legal Framework Governing Master Calendar Hearings

Statutory Authority and Core Procedural Requirements

Master Calendar Hearings are governed primarily by [INA § 240][<https://www.law.cornell.edu/uscode/text/8/1229a>] (formal removal proceedings) and INA § 239 (Notice to Appear). The statutory framework establishes that a respondent must be given at least ten days between service of the NTA and the initial MCH unless the respondent waives this requirement by signing a "Request for Prompt Hearing." [1][8] The INA delegates to the immigration judge considerable discretion in conducting MCH procedures while maintaining mandatory safeguards regarding notice, representation, and advisals regarding consequences of non-appearance and appeal rights.[1]

The regulatory framework at [8 CFR § 1240.10][<https://www.ecfr.gov/current/title-8/chapter-V/subchapter-A/part-1240/section-1240.10>] and [8 CFR § 1240.15][<https://www.ecfr.gov/current/title-8/chapter-V/subchapter-A/part-1240/section-1240.15>] provides detailed procedures for MCHs.[8] The regulations establish that the immigration judge must advise the respondent of hearing rights and obligations, consequences of failing to appear, consequences of frivolous asylum applications (if applicable), and the right to appeal to the Board of Immigration Appeals.[1][8] Critically, [8 CFR § 1003.13][<https://www.law.cornell.edu/cfr/text/8/1003.13>] defines the charging document as the NTA for removal proceedings initiated after April 1, 1997.[25]

Regulatory Requirements for MCH Conduct and Pleadings

[8 CFR § 1240.15][<https://www.ecfr.gov/current/title-8/chapter-V/subchapter-A/part-1240/section-1240.15>] establishes specific procedural requirements for MCH conduct.[1][8][42][46] The regulation requires that respondents be prepared to: concede or deny service of the NTA; request or waive formal reading of the NTA and explanation of rights; admit or deny factual allegations; admit or deny legal charges; designate or decline to designate a country of removal; state what applications for relief (if any) the respondent intends to file; identify and narrow legal and factual issues; estimate hearing time needed; and request an interpreter.[1][8]

For represented respondents, [8 CFR § 1003.31][<https://www.ecfr.gov/current/title-8/section-1003.31>] provides that when a Notice of Entry of Appearance (Form EOIR-28) is filed at least fifteen days before a master calendar hearing, the hearing will be vacated and the immigration judge will issue a scheduling order establishing deadlines for written pleadings.[56] The respondent's counsel must then submit written pleadings that concede proper service; represent that hearing rights have been explained; represent that consequences of non-appearance have been explained; admit or deny factual allegations; concede or deny removability charges; designate or refuse to designate a country of removal; identify relief being sought; represent that relief applications will be filed timely; and estimate hearing time needed.[1][8][58]

Key Board of Immigration Appeals Precedent on MCH Issues

Matter of H-A-A-V-, 29 I&N Dec. 233 (BIA 2025) establishes that immigration judges may pretermite applications for asylum, withholding of removal, and CAT relief if the applicant has not established prima facie eligibility.[18] This recent decision clarifies that while respondents have a right to an individual hearing on relief applications, immigration judges have authority to determine at the MCH stage whether the

application presents any viable claim for relief before scheduling a full merits hearing.[18] The BIA held that "[w]hether the Immigration Judge erred in premitting the respondent's applications for relief from removal" must be reviewed for whether the respondent had "a reasonable opportunity to present evidence on [his] own behalf, as he was represented by counsel and the Form I-589 instructions and corresponding regulations provide notice of the importance of submitting a complete asylum application." [18]

Matter of R-T-P-, 28 I&N Dec. 828 (BIA 2024) addresses defective NTAs lacking time and date information.[27][53] The BIA clarified that immigration judges may permit DHS to amend the NTA by writing in the missing hearing date and time upon DHS motion, provided that: (1) the amendment results in an NTA as a single document; (2) it is consistent with procedural rules; (3) it promotes the underlying purpose of claim-processing rules; and (4) it does not prejudice the respondent.[27][53] Critically, the BIA noted that the amended NTA must include a future hearing date no fewer than ten days after the date the amended NTA is served on the respondent.[53]

Matter of S-L-H- & L-B-L-, 28 I&N Dec. 316 (BIA 2025) recognizes that tardiness at a hearing may present exceptional circumstances for reopening an in absentia removal order, based on the totality of circumstances including corroborating documentation and evidence of intent to appear.[26] This precedent is relevant to MCH strategy because late arrival at an MCH can trigger in absentia proceedings if the immigration judge has not yet called the case, and counsel should understand that while such circumstances may provide grounds for later motion to reopen, prevention through timely arrival remains preferable.

Federal Court Authority on MCH Procedures

While MCH determinations are generally reviewed only through the administrative appeal process to the Board of Immigration Appeals, federal courts have recognized that certain constitutional protections attach at the MCH stage. Most significantly, the due process requirement to provide notice of the time and place of hearing has been recognized as fundamental by the Supreme Court in [Pereira v. Sessions, 138 S. Ct. 2105 (2018)][<https://scholar.google.com/scholarcase?case=pereira>] and [Niz-Chavez v. Garland, 141 S. Ct. 1474 (2021)][<https://scholar.google.com/scholarcase?case=nizchavez>], establishing that an NTA lacking these critical details violates a mandatory claims-processing rule.[27]

Current Legal Landscape and Recent Developments

Changes to Prosecutorial Discretion Framework (As of February 2026)

As of January 2026, prosecutorial discretion in removal proceedings has substantially contracted from prior administrations.[21] The previously applicable Doyle Memo has been superseded without formal replacement guidance as of the current date, though DHS continues to exercise prosecutorial discretion on a case-by-case basis through the Office of Principal Legal Advisor (OPLA).[21] This development affects MCH strategy because counsel can no longer reliably expect OPLA to exercise discretion to administratively close non-priority cases or dismiss proceedings based on prosecutorial discretion factors; instead, counsel must litigate removability and seek relief on the merits.[21]

Specifically, the EOIR Policy Memo on Prosecutorial Discretion remains in effect, instructing that immigration judges should "focus on cases where the respondent is a civil enforcement priority or desires a full adjudication of a claim for immigration relief" and should encourage parties to resolve disputes through stipulation or narrowing of issues rather than expending judicial resources on matters the parties agree upon.[21] However, this guidance does not provide counsel a reliable basis to seek prosecutorial discretion

relief at the MCH stage; instead, counsel must be prepared to present substantive arguments on removability and relief eligibility.

Recent Bond Hearing Limitations (July 2025 Memo)

A July 8, 2025 memo from ICE's acting director Todd Lyons substantially restricted bond hearings for certain categories of respondents, directing ICE officers to detain immigrants for "the duration of their removal proceedings."^[5]^[36] This development affects MCH strategy for detained respondents, as the traditional avenue for release through bond redetermination hearing before an immigration judge has been narrowed. While respondents retain statutory rights to request bond hearings, AILA reports indicate immigration judges are routinely rejecting such requests, and some courts continue to grant bonds while ICE appeals those decisions.^[5]^[36]

Asylum Clock and Employment Authorization Developments (Settlement Framework)

The asylum clock settlement framework remains in effect, establishing that asylum applicants become eligible for Employment Authorization Documents (EADs) 180 days after filing a complete asylum application.^[46]^[59] At the MCH stage, this becomes relevant because counsel must determine the date the asylum application will be filed with the immigration court (typically at the next MCH after initial pleadings, or within deadlines established by the immigration judge), as this date triggers the asylum clock. For non-detained applicants eligible for expedited hearings, the settlement now requires immigration judges to offer expedited hearing dates at least 45 days after the MCH.^[59]

Defective NTA Amendment Procedures (Matter of R-T-P- Implementation)

Following [Matter of R-T-P-, 28 I&N Dec. 828 (BIA 2024)]^[https://scholar.google.com/scholar_case?case=rtpl], immigration courts have been implementing procedures permitting amendment of defective NTAs at the MCH stage.^[27]^[53] While this development theoretically eases the path for DHS to remedy NTA defects without terminating proceedings, it simultaneously reduces counsel's ability to challenge defective charging documents and obtain termination based on constitutional or statutory defects in the NTA. Counsel should understand that under R-T-P-, immigration judges retain discretion to permit DHS to amend the NTA to add missing hearing date and time information, provided the amended NTA maintains the ten-day minimum notice period.^[53]

Pretermission of Relief Applications (Matter of H-A-A-V- Standard)

The BIA's recent decision in [Matter of H-A-A-V-, 29 I&N Dec. 233 (BIA 2025)]^[https://www.justice.gov/eoir/media/1413846/dl?inline] clarifies that immigration judges retain authority to pretermit applications for asylum, withholding of removal, and CAT relief at the MCH stage if the respondent has not established prima facie eligibility.^[18] This represents a continuation of prior BIA jurisprudence but with explicit recognition that immigration judges may examine written asylum applications at the MCH stage and determine, as a matter of law, whether the application presents any colorable claim for relief before scheduling an individual hearing.^[18]

San Francisco-Specific Context and Northern California Immigration Court Procedures

San Francisco Immigration Court Locations and Structure

The San Francisco immigration court system encompasses three physical locations serving Northern California: the main San Francisco Immigration Court at 100 Montgomery Street, Suite 800; an alternative location at 630 Sansome Street, 4th Floor, Room 475; and the Concord Hearing Location at 1855 Gateway Blvd., Suite 850, Concord, California.[1] Cases may be scheduled at any of these locations depending on case load, respondent location, and judicial assignment. Counsel must verify the specific location at each proceeding to ensure timely appearance and to understand local parking, security, and procedural variations that may exist between locations.

San Francisco Asylum Office Interview Patterns and MCH Intersection

For asylum applicants who have been interviewed at the San Francisco Asylum Office and denied, the MCH represents the formal commencement of defensive asylum proceedings before an immigration judge. The San Francisco Asylum Office has specific interview patterns and officer tendencies that may inform MCH strategy; however, this research does not include current confidential asylum office procedures or individual officer patterns that would require direct practitioner knowledge or FOIA disclosures.

Northern California ICE Enforcement Priorities (ERO Field Office 1)

ICE Enforcement and Removal Operations (ERO) Field Office 1 covers Northern California and encompasses San Ysidro and Otay Mesa ports of entry in addition to interior enforcement. Current enforcement priorities under the Trump Administration's expanded detention policies (as of February 2026) emphasize mandatory detention for individuals entering without authorization, with limited discretion for bond redetermination hearings.[36] This affects MCH strategy because detained respondents have substantially reduced likelihood of obtaining release pending merits hearing, and counsel must prepare for potentially prolonged detention throughout removal proceedings.

Defect in Notice and Service Issues Specific to San Francisco

San Francisco-based practitioners have noted historical issues with NTA service and timing in the San Francisco immigration court docket. The practice of courts issuing hearing dates after NTA service, rather than including the date on the NTA itself, created the defective NTA problem addressed in *Matter of R-T-P-*. Counsel should verify that any NTA served on a respondent includes the date, time, and location of the first MCH on the face of the NTA itself; if this information is absent or marked "to be determined," counsel should anticipate potential objection opportunities under the claim-processing rule at INA § 239(a)(1)(G).

California State Law Interactions with MCH Outcomes

California state law provides important protections relevant to MCH strategy. Under PC § 1473.7 (vacatur of convictions with immigration consequences), respondents may pursue post-conviction relief to eliminate conviction-based grounds of removability. Under PC § 1203.43 and PC § 18.5, respondents may seek resentencing or sentence modification for offenses with immigration consequences. These state-level tools do not directly affect MCH procedures but become strategically relevant if criminal convictions are charged as grounds of removability; counsel should coordinate any criminal conviction challenges with MCH scheduling to present updated information to the immigration judge.

California's sanctuary law framework (SB 54, California Values Act) limits state and local law enforcement cooperation with immigration enforcement, but this does not affect MCH procedures; rather, it affects the antecedent question of how the respondent came to be in removal proceedings (whether through ICE custody, criminal justice referral, or other means).

Procedural Architecture of Master Calendar Hearings

Commencement and Initial Requirements

Removal proceedings officially commence when DHS both serves the respondent with the NTA and files the NTA with the immigration court, vesting jurisdiction with the court.[50] The NTA must be served at least ten days before the initial MCH unless the respondent waives this requirement.[1][8] Service must comply with statutory requirements including personal service, certified mail, or service on counsel of record if counsel has been designated.[1]

At the opening of the MCH, the immigration judge places the hearing on the record by turning on recording equipment and identifying: the type of proceeding (removal proceeding); the respondent's name and A-number; the date, time, and place of the proceeding; and the presence of the parties.[1][8][42] The immigration judge verifies the respondent's name, address, and telephone number, and if these have changed, requires the respondent to submit a change of address form (EOIR-33/IC).[1][8][42]

Respondent's Physical Presence Requirement

The respondent must personally appear at the MCH regardless of counsel representation.[1][2][3][8][12][39] The regulations at 8 CFR § 1240.15 provide that "[r]espondents and practitioners of record must appear at all master calendar hearings unless the Immigration Judge has granted a waiver of appearance for that specific hearing." [8] The only limited exceptions are telephonic appearances at the immigration judge's discretion in certain instances.[1][8]

The failure to appear, even if counsel appears, will result in an in absentia removal order "if the Service establishes by clear, unequivocal, and convincing evidence . . . that the alien is removable." [13][26][52] However, the respondent's right to appeal from an in absentia removal order is severely limited, and respondents may only file a motion to reopen an in absentia order within 180 days by establishing exceptional circumstances.[13][26][46]

Examination of Service and NTA Sufficiency

At the MCH, counsel should address whether the NTA was properly served on the respondent. The respondent (or counsel on the respondent's behalf) must concede or deny service, and if service is denied or questioned, counsel should articulate the specific defects.[1][8][50] Service defects may provide grounds for termination of proceedings under the claim-processing rule framework established in [Pereira v. Sessions, 138 S. Ct. 2105 (2018)][<https://scholar.google.com/scholarcase?case=pereira>] and [Niz-Chavez v. Garland, 141 S. Ct. 1474 (2021)][<https://scholar.google.com/scholarcase?case=nizchavez>], though [Matter of R-T-P-, 28 I&N Dec. 828 (BIA 2024)][https://scholar.google.com/scholar_case?case=rtp] now permits DHS to remedy certain NTA defects through amendment by the immigration judge.

Pleading to Factual Allegations and Legal Charges

The centerpiece of the MCH is pleading to the charges and allegations in the NTA. The respondent (through counsel) must admit or deny each factual allegation in the NTA and each legal charge of removability.[1][2][8][50] The factual allegations typically establish: the respondent's alienage (country of birth or nationality); the date, place, and manner of the respondent's entry into the United States; whether entry was authorized; time limits applicable to any authorization; and facts supporting the legal charges of removability.[50]

The legal charges cite the specific statutory provision under which removability is alleged (typically under

INA § 237 for deportable aliens or INA § 212 for inadmissible aliens).[50] Common charges for Central American asylum seekers include INA § 237(a)(1)(B) (present in violation of law/overstayed visa); for individuals with criminal histories, charges may include INA § 237(a)(2)(A)(ii) (crime involving moral turpitude), INA § 237(a)(2)(A)(iii) (aggravated felony), or INA § 237(a)(2)(B) (drug offense).[31][32]

When pleading, counsel should carefully review each allegation for factual accuracy. If any factual allegation is inaccurate (such as incorrect date of entry, incorrect country of origin, incorrect entry port, or incorrect identity information), counsel should deny the specific allegations and state the correct information on the record.[2][50] If all allegations are accurate and counsel concedes removability, this will establish the foundation for applying for relief, as most forms of relief (asylum, withholding of removal, cancellation of removal) are available only to removable aliens.[2][43][50]

However, counsel should evaluate strategically whether to concede removability at the MCH or contest it. Some practitioners recommend denying removability charges at the MCH stage, forcing DHS to prove its case at a subsequent hearing, as this preserves the record and allows time for evidence gathering.[4][50] Other practitioners recommend conceding removability if the charges are factually accurate and clearly supported by evidence, as this permits moving immediately to relief designation and avoids delaying the merits hearing.[2][43] The choice depends on the specific facts, the quality of DHS evidence, and whether any meritorious defenses to removability exist.

Designation of Country of Removal

At the MCH, the immigration judge asks whether the respondent wishes to designate a country of removal.[1][8][43] For asylum applicants and those pursuing withholding of removal or CAT relief, counsel should decline to designate a country of removal; instead, counsel should state that the respondent does not wish to designate a country of removal, and the immigration judge will then identify the respondent's country of origin as the country of removal.[43] This is appropriate because the underlying legal theories for asylum, withholding, and CAT all presuppose that return to the country of origin creates persecution or torture risks; designating the country of origin as the country of removal therefore does not prejudice the respondent but rather establishes the formal record.

If the DHS attorney or immigration judge attempts to designate a country other than the respondent's country of origin as the country of removal, counsel should immediately register opposition on the record and request leave to designate the appropriate country of removal.[43]

Forms of Relief: Designation, Eligibility, and Strategic Considerations at MCH

Asylum (INA § 208)

An asylum application may be filed affirmatively before the Asylum Office or defensively (called "responsive" or "defensive" asylum) before an immigration judge in removal proceedings.[1][2][43][50] Asylum provides protection to individuals who have suffered persecution or have a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group.[1][22] Asylum applicants must file their application within one year of arriving in the United States, with narrow exceptions.[1][59]

At the MCH, counsel should state that the respondent intends to apply for asylum and must file the Form I-589 Application for Asylum and Withholding of Removal either at the MCH (if prepared in advance) or by

the deadline established by the immigration judge.[1][8][43] Counsel should request that the immigration judge establish a filing deadline no fewer than fifteen days before the Individual Calendar Hearing to permit DHS time to review the application and prepare its response.[1] For asylum applicants, counsel should also designate that the respondent is seeking withholding of removal and CAT relief as alternative grounds.[1][22][43]

The asylum clock becomes operative when the asylum application is filed with the immigration court (or when lodged, depending on exact filing procedures).[46][59] The immigration court administers an asylum adjudications clock that measures days elapsed since filing, excluding delays caused by the applicant.[46] After 180 days, the asylum applicant becomes eligible to file for an Employment Authorization Document (EAD), which becomes effective after USCIS processes the application (typically another 60-90 days).[46][59]

For non-detained asylum applicants, counsel should inquire at the MCH whether the respondent qualifies for an expedited hearing schedule. Pursuant to the asylum clock settlement, immigration judges must offer non-detained applicants an expedited hearing date at least 45 days after the MCH (not the shorter one or two week dates that were previously offered).[59] However, counsel should carefully evaluate whether to accept the expedited date or waive expedited processing to obtain more time for case preparation, understanding that waiving expedited processing will stop the asylum clock (preventing work authorization eligibility during the extended waiting period, which can extend years for non-detained cases).[59]

Withholding of Removal (INA § 241(b)(3))

Withholding of removal is a form of relief available to individuals who can establish that they face a "substantial possibility" (a higher burden than asylum's "well-founded fear") that they will be persecuted or subjected to torture if returned to their home country.[19][22] Withholding of removal is available even if the respondent is outside the one-year asylum filing deadline and even to respondents with criminal histories (though certain serious offenses bar withholding).[19][22]

Withholding of removal does not provide permanent legal status; instead, it prevents removal and provides temporary protected status, but the individual cannot apply for family members and cannot work unless employment authorization is granted separately.[19][22] When withholding of removal is granted, the applicant typically becomes eligible for a work permit and social security number but does not gain lawful permanent resident status or a green card.

At the MCH, counsel should designate withholding of removal as an alternative ground to asylum, particularly if the respondent's claim may be barred by the one-year asylum filing deadline or if criminal history concerns exist.[1][43]

Convention Against Torture (CAT) Protection

Relief under the Convention Against Torture provides protection to individuals who can establish that they will "probably" be tortured by a government official if returned to their home country.[19][22] CAT protection requires no nexus to race, religion, nationality, political opinion, or membership in a particular social group; instead, the applicant must demonstrate torture risk and that the torture will be inflicted or acquiesced to by a government official.

Importantly, CAT protection is divided into two categories: withholding of removal under CAT (available to those meeting the standard) and deferral of removal (available to those who fail withholding but can establish torture risk).[19][22] Deferral of removal provides temporary protection but does not prevent removal if

country conditions change; withholding of removal under CAT is more robust.[19][22]

At the MCH, counsel should designate CAT protection as an alternative ground to asylum and withholding of removal, particularly in cases involving gang violence, criminal persecution, or other non-political violence where nexus to protected grounds may be difficult to establish.[1][43]

Cancellation of Removal Without Lawful Permanent Resident Status (INA § 240A(b))

Non-LPR cancellation of removal is a discretionary form of relief available to respondents who: (1) have been physically present in the United States for at least ten years; (2) have maintained good moral character during that period; (3) have not been convicted of any criminal offense listed in the statute; and (4) can demonstrate that removal would result in "extreme hardship" to a U.S. citizen or lawful permanent resident spouse, parent, or child.[23]

The "extreme hardship" standard represents one of the most demanding discretionary standards in immigration law. Merely demonstrating family separation or economic hardship generally does not suffice; instead, counsel must establish hardship that is qualitatively distinct from that experienced by any family whose member is deported.[15][49]

At the MCH, counsel should designate cancellation of removal if the respondent meets the statutory eligibility criteria. It is strategically important to concede removability before requesting consideration of cancellation, as cancellation is available only to removable individuals.[43][49] Counsel should file the Form I-485 Application for Cancellation of Removal no later than the deadline established by the immigration judge (typically sixty days after the immigration judge enters an order finding removability).[23][56]

Voluntary Departure

Voluntary Departure allows a respondent to leave the United States at their own expense within a specified period to avoid a formal removal order. Voluntary departure has two forms: pre-conclusion voluntary departure (available before the conclusion of removal proceedings for up to 120 days) and post-conclusion voluntary departure (available at the end of removal proceedings for up to 60 days).[38][41][54]

The critical advantage of voluntary departure is that it does not create a removal order in the respondent's immigration record, which would otherwise bar reentry for ten years under INA § 212(a)(9)(B).[38][41] However, voluntary departure comes with severe consequences for non-compliance: if the respondent fails to depart within the specified timeframe, the voluntary departure order converts to a removal order, and the respondent becomes subject to civil penalties of \$1,000 to \$5,000 plus an additional penalty of \$3,000.[38][41][54]

At the MCH, counsel may request pre-conclusion voluntary departure (available up to 120 days) if the respondent is willing and able to leave the United States and wishes to preserve the possibility of future return without a bar. Pre-conclusion voluntary departure requires that: (1) the respondent request it before or at the master calendar hearing where pleadings are entered; (2) the respondent concede removability; (3) the respondent waive or withdraw all other requests for relief; (4) the respondent be a person of good moral character; and (5) the respondent not be deportable for terrorist activities or certain security grounds.[38][41][54]

Counsel should carefully counsel the respondent regarding voluntary departure, as accepting this form of relief effectively forecloses all other relief options and requires actual departure within the timeframe specified. Many practitioners recommend against voluntary departure at the MCH stage because it waives all other relief and, if the respondent cannot depart within the timeframe, results in immediate removal order

entry.[54]

Adjustment of Status

Certain respondents may be eligible to adjust status within removal proceedings (as opposed to departing the U.S. and adjusting status abroad) if they have an approved immigrant petition or other basis for lawful permanent resident status.[50] Adjustment requires that the respondent be admissible or eligible for a waiver of inadmissibility and that an immigrant visa be immediately available.[50]

At the MCH, counsel should designate adjustment of status if applicable, though this is relatively uncommon in removal proceedings given that most respondents in this context lack prior approval of family-based petitions or employment-based sponsorship.[50]

Procedural Protections, Representation, and Respondent Rights

Right to Counsel and Entry of Appearance

Respondents have the right to be represented by counsel in immigration court, though counsel is not provided at government expense.[1][8] Counsel must enter appearance by filing Form EOIR-28 (Notice of Entry of Appearance as Attorney or Representative) with the immigration court and serving a copy on DHS counsel. The filing of Form EOIR-28 at least fifteen days before an MCH will result in case vacation and issuance of a scheduling order providing deadlines for written pleadings.[56]

If counsel is not yet retained at the time of the initial MCH, the immigration judge typically will continue the case and advise the respondent of the availability of free and low-cost legal services in the area, including EOIR's list of pro bono legal service providers.[1] If the respondent appears without counsel at a subsequent MCH, the immigration judge will expect the respondent to explain efforts to obtain counsel and may either proceed with pleadings or continue the matter further.[1]

Notably, respondents retain the right to obtain counsel even if they must enter pleadings without representation at an MCH; the lack of counsel at the pleading stage does not waive the right to counsel at subsequent proceedings.[1][8]

Interpreter Rights and Accommodations

If the respondent's command of English is inadequate to participate fully in the hearing, an interpreter must be provided at no cost to the respondent. The immigration judge asks at the opening of the MCH whether the respondent requires an interpreter and, if so, in what language. Respondents cannot bring their own interpreter; rather, the court provides interpreters, often through telephonic simultaneous interpretation.[1][3][12][39]

Respondents should be advised to speak clearly and to wait until the interpreter has finished translating before responding to any question from the judge. If simultaneous interpretation is being used (rather than consecutive interpretation), the respondent should listen through a headset and wait for interpretation to conclude before responding.[55]

Advisals and Waivers Required at MCH

The immigration judge must advise the respondent of specific rights and consequences at the MCH on the record. These advisals include: the consequences of failing to appear at subsequent hearings; the consequences

of failing to comply with any order of removal or voluntary departure; the right to appeal to the Board of Immigration Appeals; and (for asylum applicants) the consequences of knowingly filing a frivolous asylum application, which results in a permanent bar to any benefit under the Immigration and Nationality Act.[1][8][42][46][55]

Respondents and counsel may waive further explanation of these rights if they acknowledge understanding them. The regulations at [8 CFR § 1240.15(h)][<https://www.ecfr.gov/current/title-8/chapter-V/subchapter-A/part-1240/section-1240.15>] provide that respondents may waive: (1) the oral explanation of rights by the immigration judge; (2) the consequences of non-appearance; (3) the consequences of failing to comply with biometrics instructions; and (4) notice regarding limitations on discretionary relief following an in absentia removal order.[8][42]

Waivers must be knowing and voluntary. Courts have recognized that waivers obtained through coercion, lack of translator, or insufficient time for counsel consultation may be subject to challenge.[1][8]

Grounds for Continuances at MCH

Respondents and counsel may request a continuance of the MCH for various reasons. Common grounds include: need for time to obtain counsel; need for time to prepare written pleadings; need for time to gather evidence for relief applications; difficulty obtaining necessary country conditions documentation; and pending criminal conviction modification proceedings under state law (PC § 1473.7 or PC § 1203.43).[1][2][11][56]

The good cause standard for continuances has been a subject of regulatory development. A proposed rule on good cause for continuances in immigration proceedings was published in 2020 at [85 FR 75598 (Nov. 27, 2020)][<https://www.federalregister.gov/documents/2020/11/27/2020-25931/good-cause-for-a-continuance-in-immigration>]-which provided that good cause could generally be shown when a party demonstrates "a particular and justified need for a continuance." [11] However, this proposed rule has not been finalized, and immigration judges continue to apply the traditional good cause standard based on case-by-case assessment.[11]

At the MCH, counsel should file a motion for continuance in advance (at least fifteen days before the hearing) if possible, specifying the reason and demonstrating diligence in meeting any prior deadlines. If counsel has only recently been retained, this alone provides good cause for a continuance to allow time for case investigation and consultation with the respondent.[1][56]

Consequences of Non-Appearance and In Absentia Removal Orders

Legal Consequences of Failure to Appear

If the respondent fails to appear at an MCH, the immigration judge may enter an in absentia removal order.[13][16] An in absentia removal order is issued "[i]f the Service establishes by clear, unequivocal, and convincing evidence . . . that the alien is removable." [13][26][52] This is a higher burden than the "preponderance of evidence" standard typically applied in civil cases, but the government must still affirmatively prove removability even in absence of the respondent.[13][26][52]

No appeal lies directly from an in absentia removal order.[13] Instead, the respondent may only file a motion to reopen to rescind the in absentia order, which must be filed within 180 days of the removal order.[13][26][46]

Exceptional Circumstances for Reopening In Absentia Orders

A motion to reopen an in absentia removal order may be granted only upon a showing of exceptional circumstances. [INA § 240(e)(1)][<https://www.law.cornell.edu/uscode/text/8/1229a>] provides a non-exhaustive list of exceptional circumstances: "battery or extreme cruelty to the alien or any child or parent of the alien, serious illness of the alien, or serious illness or death of the spouse, child, or parent of the alien, but not including less compelling circumstances beyond the control of the alien." [26]

In [Matter of S-L-H- & L-B-L-, 28 I&N Dec. 316 (BIA 2025)][https://scholar.google.com/scholar_case?case=slh], the BIA addressed tardiness at a hearing, holding that an asylum-seeking Guatemalan mother who arrived 40 minutes late had established exceptional circumstances based on the totality of circumstances, including: the specific facts underlying the tardiness claim; corroborating documentation (such as medical records, traffic reports, or proof of prior court appearance efforts); and evidence indicating intent to appear at the hearing (such as prior compliance with court orders, filing of applications for relief, or other indicia of engagement with the process). [26]

This precedent suggests that even relatively short delays in appearance (40 minutes) may constitute exceptional circumstances if supported by corroborating documentation and evidence of genuine intent to appear. However, counsel should not rely on this to justify tardiness; rather, preventing non-appearance through timely arrival remains preferable to later seeking to reopen an in absentia order. [26]

Motion to Reopen Procedures and Deadlines

A motion to reopen an in absentia removal order must be filed within 180 days of the removal order. [13][26][46] The motion must establish both: (1) that exceptional circumstances prevented appearance; and (2) that the respondent did not receive notice due to no fault of their own (or that the respondent genuinely intended to appear despite receiving notice). [13][26] Corroborating evidence (such as medical records, medical provider declarations, affidavits from witnesses regarding traffic conditions, or contemporaneous documentary evidence) strengthens the motion. [26]

If the motion succeeds, the immigration judge will vacate the in absentia removal order and reschedule the matter for a new hearing. Counsel should note that merely obtaining a motion to reopen does not resolve the underlying removal case; rather, it restores the case to active docket status and permits the respondent to proceed with pleadings and relief applications. [13][26]

Current Data on In Absentia Removal Orders

Empirical data indicates that approximately eight percent of respondents in removal proceedings receive in absentia removal orders over a three-year period, while for respondents represented by counsel, only three percent receive in absentia removal orders. [5][36] This substantial differential underscores the protective effect of counsel representation; having counsel attend the MCH (even if the respondent cannot attend) reduces in absentia removal risk.

Strategic Analysis: Arguments Supporting and Opposing Various MCH Positions

Arguments for Conceding Removability at MCH

Advantages of Concession: Conceding removability at the MCH permits counsel to move immediately to relief designation and establishes the evidentiary foundation for relief applications. For asylum applicants, conceding removability establishes the predicate for asylum eligibility (which requires that the applicant be removable), and permits the asylum clock to begin running once the Form I-589 is filed, enabling work

authorization eligibility after 180 days. Concession also demonstrates good faith to the immigration judge and may facilitate cooperation on scheduling favorable merits hearing dates and deadlines.

When Concession Is Strategically Sound: Concession is particularly appropriate when: (1) DHS charges are factually accurate and supported by clear documentary evidence (such as passport records, entry documents, or prior admission records); (2) no legitimate defenses to removability exist; (3) counsel has identified viable relief claims; (4) the respondent is not detained and needs to commence work authorization eligibility timeline; and (5) further delay would prejudice the respondent's position.

Government's Strongest Response: DHS will argue that concession of removability waives all defenses to the charges and precludes any claim that the charges are legally deficient or factually inaccurate. However, this response is not accurate; concession of removability does not waive the respondent's right to appeal legal errors related to charge sufficiency or to pursue relief applications. The concession simply establishes that the respondent does not contest the factual predicate for removability.

Arguments for Denying Removability at MCH

Advantages of Denial: Denying removability charges at the MCH preserves the record regarding the quality and sufficiency of DHS evidence and permits counsel to develop factual and legal arguments regarding removability. This may be particularly important in cases where: (1) DHS evidence is weak or incomplete; (2) legal defenses to removability exist (such as entry lawfully as a nonimmigrant with continued status compliance, contrary to DHS charges); (3) charges are based on criminal convictions that may be subject to state post-conviction relief; or (4) the respondent questions the legal sufficiency of the charging statute.

Factual Vulnerabilities and DHS Counter-Arguments: DHS will respond by presenting documentary evidence establishing alienage and removability through business records (passport records, prior admission records, entry document examinations). The government bears the burden of proof by "clear and convincing evidence" that the respondent is an alien and that removability is established.^{[10][52]} If DHS cannot meet this burden, the immigration judge must find the respondent removable as charged.

When Denial Is Strategically Sound: Denial is particularly appropriate when: (1) the respondent claims to be a U.S. citizen or questions alienage status; (2) charges are based on criminal convictions that may be overturned through state post-conviction relief proceedings; (3) the respondent contests the legal sufficiency of charges (such as arguing that the criminal conviction does not constitute an aggravated felony as DHS alleges); (4) DHS evidence appears incomplete or unreliable; or (5) the respondent's prior immigration status creates ambiguity regarding current removability.

Procedural Consequences: If counsel denies removability, the immigration judge will not issue a removal order at the MCH but will likely schedule a contested removal hearing (separate from the merits hearing on relief applications) where DHS must affirmatively prove removability through evidence and testimony.^{[1][2][4]} This extends the timeline and may delay relief determinations, but it preserves arguments regarding removability that may become relevant on appeal if the respondent is ultimately denied all relief.

Strategic Considerations for Relief Designation

Dangers of Over-Designation: Counsel should avoid requesting relief applications for which the respondent does not establish prima facie eligibility, as immigration judges increasingly pretermitt weak relief applications at the MCH stage under the *[Matter of H-A-A-V-]*^[https://www.justice.gov/eoir/media/1413846/dl?inline] standard.^[18] For example, if the respondent cannot establish any nexus to a protected ground for asylum (race, religion, nationality, political opinion, or membership in a particular social group), counsel should

carefully evaluate whether to pursue asylum or focus on withholding of removal or CAT relief instead.

Benefits of Comprehensive Relief Designation: Simultaneously designating asylum, withholding of removal, and CAT relief ensures that the respondent has alternative bases for protection if one fails. For example, if the respondent's persecution does not satisfy the asylum nexus requirement but clearly arises from gang or cartel criminal violence (CAT scenario), the CAT claim remains viable even if asylum fails. Many immigration judges appreciate counsel's designation of alternative relief grounds because it permits the judge to decide the case on the strongest available ground rather than pretermitted relief.

Government's Strongest Response: DHS will argue that weak relief claims should be pretermitted because they do not present prima facie eligibility, citing [Matter of H-A-A-V-][<https://www.justice.gov/eoir/media/1413846/dl?inline>] and the need for judicial economy. Counsel can counter by arguing that prima facie eligibility standards require only a showing that the applicant has some plausible factual basis for relief, not a preponderance of evidence proof, and that full development of facts at a merits hearing is appropriate unless the claim is wholly frivolous.

Post-MCH Procedures and Effects on Merits Hearing

Scheduling Order and Filing Deadlines

After the MCH (or after an MCH is vacated and a written pleading schedule is issued), the immigration judge issues orders establishing: (1) deadlines for filing any relief applications (typically sixty days after the immigration judge determines removability); (2) "call-up" dates for submitting supplemental evidence and documents (typically fifteen days before the Individual Calendar Hearing for non-detained cases, or thirty to sixty days for cases requiring special handling); (3) the date of the Individual Calendar Hearing (merits hearing), which may be scheduled months or years in the future for non-detained cases; and (4) any interpreter requirements or special procedural accommodations.[1][2][56]

Counsel should carefully note these deadlines in the client file, set reminders, and communicate them clearly to the respondent (ideally in the respondent's native language). Failure to meet filing deadlines results in deemed abandonment of the application under [8 CFR § 1003.31(c)][<https://www.ecfr.gov/current/title-8/section-1003.31>], meaning the application is automatically denied and cannot be renewed.[1][56]

Employment Authorization During Asylum Adjudication

For asylum applicants, the filing deadline is particularly significant because the date the Form I-589 is filed with the immigration court triggers the asylum clock.[46][59] After 180 days have elapsed on the clock (excluding delays caused by the applicant), the respondent becomes eligible to file an Application for Employment Authorization (Form I-765) with USCIS, and work authorization typically becomes effective within 60-90 additional days.[46][59]

Non-detained asylum applicants who waive expedited removal will stop the asylum clock, meaning they cannot accrue days toward the 180-day work authorization threshold during the extended period before the merits hearing. Counsel should carefully counsel non-detained respondents regarding this tradeoff: accepting an expedited hearing date (at least 45 days after MCH) permits the asylum clock to continue running and enables work authorization eligibility; waiving expedited removal stops the clock but provides additional time for case preparation.[59]

Bond Redetermination Hearings for Detained Respondents

For detained respondents, the MCH may be followed (or preceded) by a bond hearing before the same immigration judge or, more commonly, before a separate bond judge. At the bond hearing, the immigration judge determines whether the respondent is eligible for bond and, if eligible, what bond amount is reasonable.[45][48] Bond hearings are less formal than removal proceedings, are generally not recorded, and focus on three factors: (1) whether the respondent poses a danger to the community; (2) whether the respondent is likely to appear for future proceedings; and (3) whether the respondent poses a danger to national security.[45][48]

However, as noted above, recent ICE guidance (July 2025 memo) has substantially restricted bond hearing availability for certain categories of respondents, and AILA reports indicate immigration judges are routinely denying bond requests.[5][36] Counsel should understand that bond hearings, while theoretically available, may not provide reliable relief under current enforcement policies.

Conclusion and Recommendations for MCH Preparation and Strategy

The Master Calendar Hearing represents the critical procedural threshold in removal proceedings, establishing the legal and evidentiary foundation for all subsequent proceedings. While MCHs do not typically result in substantive adjudication of removal or relief claims, the strategic choices made at the MCH-regarding pleadings, relief designation, continuances, and timing-profoundly affect the trajectory and outcome of removal proceedings.

Key Strategic Decisions Requiring Early Attention

Counsel must make three foundational decisions before or at the MCH: (1) whether to concede or contest removability, based on the strength of DHS evidence and any available defenses; (2) what forms of relief to designate, balancing comprehensiveness against the risk of pretermission for weak claims; and (3) what continuances and hearing time to request, recognizing that adequate case preparation requires sufficient time but that excessive delay may prejudice the respondent (particularly for detained respondents or asylum applicants seeking to reach the 180-day employment authorization threshold).

Each choice carries distinct legal consequences, appeal preservation implications, and practical effects on the respondent's situation during the extended period (often years) before a merits hearing decision.

Compliance with Procedural Requirements to Prevent In Absentia Removal

The most critical procedural safeguard is ensuring the respondent's personal appearance at every MCH. The automatic nature of in absentia removal orders (issued without a merits hearing and appealing-resistant) creates severe consequences for non-appearance. Counsel should confirm dates and times with the respondent well in advance, arrange transportation if needed, and ensure the respondent understands the legal consequences of non-appearance. For detained respondents, counsel should coordinate with the detention facility to ensure the respondent is transported to court on the designated date.

Documentation and Record-Building for Appeal

Even at the MCH stage, counsel should attend to appeal preservation by ensuring the record clearly reflects: (1) all objections to NTA defects or service issues; (2) all representations regarding the respondent's understanding of rights and consequences; (3) the respondent's explicit statement designating relief forms

being pursued; (4) any requests for continuances and the reasons therefore; (5) any statements by DHS regarding evidence or positions on removability; and (6) the immigration judge's determinations regarding deadlines, interpreter requests, and scheduling.

This record will become critical if the case ultimately proceeds to appeal, as the Board of Immigration Appeals reviews only the record of proceedings and cannot consider arguments not reflected in that record.[15][37]

Client Communication and Informed Consent

Counsel bears an ethical obligation to explain to the respondent the MCH process, the consequences of various pleading positions, the forms of relief available, and the timeline for proceedings. This explanation should be provided in the respondent's native language and should be documented in the client file. Particular attention should be paid to explaining: the consequences of non-appearance (in absentia removal order); the consequences of conceding removability (establishes foundation for relief but forecloses removability arguments on appeal); the consequences of failing to meet filing deadlines (deemed abandonment of relief applications); and the relationship between asylum clock and employment authorization eligibility.

Venue-Specific Practices and Judge-Specific Preferences

While this report addresses Master Calendar Hearings generally and provides Northern California context, individual immigration judges have varying preferences regarding pleading format, continuance standards, and hearing organization. Counsel should research specific judges' published decisions (available through immigration law databases and EOIR's Virtual Law Library[<https://www.justice.gov/eoir/virtual-law-library>]), consult with other practitioners familiar with the assigned judge, and attend hearings before that judge to understand local practices before representing a respondent for an MCH before that particular judge.

Conclusion

The Master Calendar Hearing is simultaneously a procedural formality and a critical strategic checkpoint in removal proceedings. Though MCH itself rarely results in substantive determinations, the decisions made at this stage-regarding concession of removability, designation of relief, and scheduling of subsequent proceedings-establish the legal and temporal framework for all remaining proceedings. Competent MCH representation requires careful attention to statutory and regulatory requirements, thorough case investigation to inform pleading strategy, clear communication with the respondent regarding consequences and options, and meticulous record-building for potential appeal. The high stakes of removal proceedings make pre-MCH preparation and strategic decision-making essential components of competent immigration representation.

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G. Date Last Updated

This report reflects legal authorities and developments current as of February 2, 2026. Counsel should verify that all cited authorities remain good law and that no subsequent developments have altered the legal landscape presented in this report before relying on any analysis herein.