

Written Pleadings in Executive Office for Immigration Review Immigration Court Proceedings: A Legal Research Report

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FINDINGS

WRITTEN PLEADINGS IN EXECUTIVE OFFICE FOR IMMIGRATION REVIEW IMMIGRATION COURT PROCEEDINGS: A COMPREHENSIVE LEGAL RESEARCH REPORT

Executive Summary

Written pleadings represent a formal procedural mechanism in immigration court proceedings that allows represented respondents to respond to the Notice to Appear and state their positions on charges and relief applications through documentary submission rather than oral testimony at a master calendar hearing.[1][3] As of February 2026, the use of written pleadings has become substantially more prevalent in immigration court proceedings, particularly following the implementation of Policy Memorandum 21-18 in April 2021, which established a revised case flow processing model for represented, non-detained respondents.[9][55] Under this framework, when an immigration attorney or accredited representative files a Form EOIR-28 (Notice of Entry of Appearance) at least fifteen days prior to a master calendar hearing, the immigration judge issues a scheduling order that establishes deadlines for submitting written pleadings and evidence related to charges of removability.[9][12] Written pleadings must comply with specific procedural requirements established under 8 C.F.R. § 1003.31 and detailed in the EOIR Policy Manual Appendix K, including a formal caption identifying the parties and proceeding, signed declarations from both the attorney and respondent confirming compliance with advisal requirements, and specific admissions or denials of allegations and charges contained in the Notice to Appear.[1][5][18] The standard timeline following a vacated master calendar hearing provides thirty days for respondents to submit written pleadings and evidence related to removability charges, with the government afforded twenty days to file responses.[9][12][20][30] Failure to comply with procedural requirements, including timely filing and proper declaration execution, may result in waiver or abandonment of applications for relief or even preclusion of raising certain legal defenses.[1][3] For Northern California practitioners working in the San Francisco Immigration Court and associated satellite locations, written pleadings have become the default pathway for most represented, non-detained cases rather than an exceptional procedural option, fundamentally altering how initial removal proceedings are conducted.

Regulatory Framework and Foundational Authority

Statutory and Regulatory Basis

Written pleadings in immigration court proceedings derive their authority from both the Immigration and Nationality Act and the implementing regulations of the Executive Office for Immigration Review. The foundational statutory provision is INA § 240(b), which establishes the procedural framework for removal proceedings before immigration judges, including provisions governing the entry of pleadings and respondent rights during master calendar hearings.[12][20] The implementing regulations in 8 C.F.R. § 1003.31 establish the technical filing requirements applicable to all documents filed with immigration courts, including mandatory signatures, original document availability requirements, and consequences for untimely filing.[1][38][41] Critically, 8 C.F.R. § 1003.31(h) provides that immigration judges retain authority to set and extend time limits for filing applications and documents, and importantly, establishes that failure to file within the time set by the immigration judge results in waiver of the opportunity to file that application or document.[1][38] This provision creates the legal predicate for the modern use of scheduling orders directing written pleadings in lieu of oral pleadings at master calendar hearings.

Beyond these primary regulatory provisions, 8 C.F.R. § 1240.10(a) establishes the specific advisal requirements that immigration judges must communicate to respondents, and these same advisals must be documented in written pleading declarations to establish informed waiver of the right to oral advisals at hearing.[15][43] The regulations also establish specific requirements for background investigations and biometrics submissions at 8 C.F.R. § 1003.47(d), which creates consequences for failure to comply that practitioners must address in written pleadings.[3][21][24]

EOIR Policy Manual and Operational Guidance

The EOIR Policy Manual, Part II, Chapter 3, governs filing procedures with immigration courts and contains the definitive guidance on written pleadings timing and mechanics.[12][20][30] Appendix K of the EOIR Policy Manual provides a sample written pleading template that has become the standard form used in practice nationwide, including in the Northern California immigration courts.[3][8][19][37] Appendix L provides a sample oral pleading format for comparison, which assists practitioners in understanding the substantive elements that must be conveyed, whether orally or in writing.[5][25]

The most significant policy development affecting written pleadings is Policy Memorandum 21-18, issued in April 2021, which established the revised case flow processing model.[9][55][58] This memorandum explicitly encourages the use of written pleadings, stipulations, and joint motions as mechanisms for expediting cases through the immigration court system while maintaining due process protections.[9][55][58] PM 21-18 provides that when a represented respondent's attorney files a Form EOIR-28 at least fifteen days before a master calendar hearing, the hearing is automatically vacated and the immigration judge issues a scheduling order establishing deadlines for written pleadings submission.[9][12][30] The memorandum notes that this practice does not represent a new procedure but rather formalizes and encourages an already established procedural option that had been underutilized prior to 2021.[9][58]

Procedural Requirements for Written Pleadings: Formatting and Compliance

Caption and Document Identification Requirements

8 C.F.R. § 1003.31 and the EOIR Policy Manual establish specific formatting requirements for all documents filed with immigration courts, and written pleadings must comply with all such requirements.[1][38][41] The written pleading must contain a proper caption that identifies the proceeding as a removal proceeding, clearly states the respondent's name, and includes the respondent's alien registration number (A-number) as appears on the Notice to Appear.[5][18][27][49] The caption must also identify the immigration court location and format the document in a manner consistent with the style established in the sample written pleading template in Appendix K of the EOIR Policy Manual.[3][8][19][37] The document should be labeled as "RESPONDENT'S WRITTEN PLEADING" to clearly indicate the type of submission.[5][18][27][49]

The written pleading must be prepared on standard-size paper (eight and one-half inches by eleven inches), must be typewritten or electronically generated in a legible format, and must include two-hole punching without fasteners to facilitate court filing.[50] Pages must be sequentially numbered and clearly organized to allow immigration judges and government attorneys to locate specific information without difficulty.[50] When a written pleading incorporates multiple supporting exhibits or declarations, a table of contents should precede the substantive text to assist the court in navigating the submission.[50]

Filing Method and Electronic Submission Requirements

Under 8 C.F.R. § 1003.31(a)-(b), attorneys and accredited representatives of record are required to electronically file all documents with immigration courts through EOIR's electronic filing application (ECAS)

in cases eligible for electronic filing.[1][38][41] However, the regulation provides that immigration judges retain discretion to accept paper filings in appropriate circumstances, including planned or unplanned system outages.[1][38] For practitioners in the Northern California immigration courts, most non-detained removal cases are eligible for electronic filing through ECAS, and the San Francisco Immigration Court clerk's office maintains current information regarding which cases are in the electronic filing system.[1]

Unrepresented respondents (pro se respondents) are permitted but not required to file electronically, and may file written pleadings in paper format at the court window or by mail if they choose to do so.[1][36] However, unrepresented respondents filing in paper format must ensure proper service on the Department of Homeland Security's Office of Chief Counsel and must file a certificate of service documenting such service.[47][50]

Signature and Authentication Requirements

8 C.F.R. § 1003.31(j) requires that all documents filed with immigration courts that require signatures must contain either an original handwritten ink signature, an encrypted digital signature, or an electronic signature.[1][38][41] For electronically filed pleadings submitted through ECAS, a conformed signature (the system's equivalent of a signature on an electronic document) is acceptable and satisfies the regulatory requirement.[1][38][41] The written pleading itself must be signed by the respondent's attorney or accredited representative, and the accompanying pleading declaration must be signed by the respondent and witnessed or verified through an interpreter if the respondent does not read or speak English sufficiently to understand the document.[5][18][27]

8 C.F.R. § 1003.33 requires that all documents filed in a language other than English must be accompanied by a certified English translation, and the certification of translation must include statements that the translator is competent in both languages and that the translation is accurate and complete.[50] If the respondent does not speak English, a certificate of interpretation must accompany the pleading declaration, certifying that an interpreter of competent ability has read the entire pleading to the respondent in a language the respondent understands and that the respondent indicated understanding before signing.[5][18][27][53]

Content Requirements for Written Pleadings

Mandatory Representations Regarding Attorney Advisals

A critical distinction between written pleadings and oral pleadings is the requirement that written pleadings include specific representations by the attorney or representative documenting that the respondent has been advised of certain rights and consequences.[5][18][27][43] These representations create a contemporaneous record establishing the respondent's informed waiver of the immigration judge's obligation to provide certain advisals at the hearing itself.[15][43]

The written pleading must include the attorney or representative's representation that the respondent has been advised of the rights set forth in 8 C.F.R. § 1240.10(a), which includes the right to review and inspect all evidence presented by the government, the right to be represented by counsel, the right to present evidence on the respondent's behalf, the right to cross-examine government witnesses, and other procedural and substantive protections.[5][18][27] The pleading must also include the attorney's representation that the respondent has been advised of the consequences of failing to appear for a hearing, as specified in INA § 240(b)(5).[5][18][27] Additionally, the pleading must document that the respondent has been advised of the limitation on discretionary relief for failure to appear under INA § 240(b)(7).[5][18][27]

When a respondent is applying for asylum relief, the written pleading must include the attorney's representation that the respondent has been advised of the consequences of knowingly filing or making a

frivolous asylum application as specified in INA § 208(d)(6).^{[5][18][27][49]} This advice is critical because frivolous asylum findings create permanent bars to relief in certain circumstances and can result in DHS initiation of criminal referral proceedings.^{[5][18][27][49]} The omission of this representation when asylum relief is being claimed constitutes a significant compliance defect that could render the entire pleading deficient.

The written pleading must further document the attorney's representation that the respondent has been advised of the requirement to notify the immigration court within five days of any change of address or telephone number using Form EOIR-33/IC pursuant to 8 C.F.R. § 1003.15(d).^{[5][18][27]} This requirement is particularly important in San Francisco, where respondents experiencing housing instability or frequent relocations may face particular compliance challenges.

Admissions and Denials of Allegations and Charges

The written pleading must clearly identify which factual allegations contained in the Notice to Appear the respondent concedes and which allegations the respondent denies.^{[5][18][27][43][49]} The respondent must be given the opportunity to concede or deny each allegation separately, and the written pleading should organize this element clearly by reference to the allegation numbers if the Notice to Appear has numbered the allegations.^{[5][18][27][49]} For example, if the Notice to Appear alleges that the respondent: (1) is an alien; (2) was born in Mexico; and (3) entered the United States without inspection, the written pleading should state something like "The respondent concedes allegations 1 and 2 and denies allegation 3."^{[5][18][27]}

Separately from factual allegations, the written pleading must clearly identify which charge or charges of removability the respondent concedes and which the respondent denies.^{[5][18][27][43][49]} In many cases, a respondent may concede one charge (for example, present without admission of entry) while denying another charge (for example, conviction of a crime of violence).^{[5][18][27]} The written pleading should clearly delineate the charges being conceded and those being contested, as the immigration judge may then expedite the determination of removability for the conceded charges while scheduling a hearing on the contested charges.^{[9][12][20]}

It is important to note that in the San Francisco Immigration Court and throughout the Ninth Circuit, concessions of removability made in writing through a pleading are treated the same as concessions made orally at a hearing and bind the respondent unless the immigration judge determines that extraordinary circumstances warrant withdrawal of the concession.^{[5][18][27]} Practitioners must therefore ensure that they have thoroughly reviewed the Notice to Appear, discussed the allegations and charges with the respondent in detail, and obtained clear instructions from the respondent regarding which allegations and charges to concede before submitting the written pleading.

Identification of Relief Applications and Prima Facie Eligibility Statements

The written pleading must identify all forms of relief from removal that the respondent intends to pursue.^{[5][18][27][43][49]} The sample written pleading template in EOIR Policy Manual Appendix K provides checkboxes for common forms of relief, including asylum, withholding of removal (restriction on removal), cancellation of removal, adjustment of status, voluntary departure, waivers of inadmissibility, and termination of proceedings.^{[5][18][27][49]}

Critically, for each form of relief identified in the written pleading, the attorney or representative must include a representation that the respondent is prima facie eligible for that relief.^{[5][18][27]} "Prima facie eligibility" means that on the face of the pleading and the facts known to counsel, there is sufficient evidence to demonstrate that the respondent potentially meets the statutory requirements for the relief claimed, without

prejudging the ultimate discretionary or credibility determinations that the immigration judge must make.[5][18][27] This representation creates an important record that counsel has conducted a preliminary legal analysis before asserting relief eligibility.

For asylum relief, prima facie eligibility requires evidence that the respondent: (1) meets the definition of a refugee at INA § 208(b)(1), meaning the respondent has been or fears persecution on account of one of the protected grounds (race, religion, nationality, political opinion, or membership in a particular social group); (2) does not fall within one of the bars to asylum eligibility; and (3) has filed or intends to file the asylum application in a timely manner.[5][18][27][43] The prima facie showing for asylum can be satisfied through the pleading declaration itself if the respondent briefly describes the persecution feared and identifies the protected ground on which the asylum claim is based.[5][18][27]

For cancellation of removal relief, the prima facie showing requires different elements depending on whether the respondent is a lawful permanent resident seeking relief under INA § 240A(a) or a non-permanent resident seeking relief under INA § 240A(b).[10][31][34] For a permanent resident, the prima facie showing must address: (1) at least five years of lawful permanent residence; (2) at least seven years of continuous physical presence in the United States after lawful admission; and (3) absence of criminal convictions or other bars to relief.[10][31] For a non-permanent resident, the prima facie showing must address: (1) at least ten years of continuous physical presence in the United States; (2) good moral character; (3) absence of criminal convictions or other bars; and (4) the existence of extreme hardship to a qualifying relative.[10][34]

The prima facie showing for withholding of removal requires evidence demonstrating that there is a substantial likelihood that the respondent would be persecuted if removed to the country of removal, establishing that the persecution would be on account of one of the protected grounds, and demonstrating that the respondent does not fall within the bars to withholding established at INA § 208(b)(2).[14][16] For Convention Against Torture protection, the prima facie showing must establish that the respondent is more likely than not to be tortured if removed, and that the torture would be inflicted by or with the acquiescence of government authorities.[14][32]

Country of Removal Designation

The written pleading must address the respondent's election regarding designation of a country of removal.[5][18][27][43][49] Under INA § 241(b)(2), a respondent may designate the country to which removal should be directed, and if the respondent designates a country, the government generally cannot remove the respondent to a different country unless the respondent subsequently agrees.[5][18][27] In the written pleading, the respondent may either name a specific country as the country of removal or decline to designate a country and allow the government to determine the country of removal.[5][18][27]

For respondents from Central America, Mexico, and other origin countries commonly represented in the San Francisco Immigration Court, the designation decision may carry strategic significance. If a respondent is claiming persecution by government agents in one country but fears private persecution in a second country, the designation of the second country might affect the analysis of whether withholding of removal or CAT protection would be available. However, for most respondents, particularly those without country-specific bars or alternative country options, the designation of the country of origin is straightforward and non-controversial.

Estimate of Time for Presentation and Interpreter Requirements

The written pleading should include the respondent's estimate of the number of hours required to present the respondent's case at the individual calendar (merits) hearing.[5][18][27][43][49] This estimate is important for

immigration judge scheduling purposes and also provides a baseline for assessing whether additional time or continuances may be necessary. Practitioners should provide realistic estimates rather than minimal estimates, as underestimating the time needed often results in inadequate hearing time and may necessitate continuances that delay the final disposition of the case.[45]

The written pleading must address whether the respondent requires an interpreter for the hearing.[5][18][27][43][49] If an interpreter is needed, the pleading should specify the language and, if applicable, any particular dialect that the respondent speaks.[5][18][27] Practitioners should be aware that for cases involving indigenous language speakers, particularly from Central America where many respondents in the San Francisco Immigration Court originate, identifying the specific dialect may be necessary to ensure the availability of a qualified interpreter.[45] The EOIR Policy Manual and Immigration Court Practice Manual provide guidance on interpreter request requirements that practitioners should reference when drafting this section of the pleading.[15][43]

Respondent's Pleading Declaration: Essential Elements and Requirements

Acknowledgment and Waiver of Rights

A critical component of any written pleading submitted on behalf of a represented respondent is the "Respondent's Pleading Declaration," which the respondent must execute under oath or affirmation.[5][18][27] This declaration serves as a record that the respondent understands the pleading being submitted and agrees with the positions stated therein. The declaration must begin with an acknowledgment that the respondent has been advised of the respondent's rights in the removal proceedings by the attorney or representative and that the respondent understands those rights.[5][18][27][49]

Critically, the declaration must include a statement that the respondent waives a further explanation of those rights by the immigration judge at the hearing itself.[5][18][27][49] This waiver language is essential because it creates a record that the respondent, having been advised of rights by counsel and understanding them, voluntarily chooses not to have the immigration judge re-explain those rights at a hearing. Without this waiver language, an immigration judge may determine that the respondent has not been adequately advised of certain rights and may decline to accept the written pleading without holding a hearing to provide advisals.[5][18][27]

Acknowledgment of Consequences of Failure to Appear

The respondent's pleading declaration must include a statement that the respondent has been advised of the consequences of failing to appear for a hearing and that the respondent understands those consequences.[5][18][27][49] This language creates a record that the respondent is aware that failure to appear at a scheduled hearing may result in an order of removal in absentia under INA § 240(b)(5) and that such a removal order may be difficult or impossible to reopen even if the respondent demonstrates that the failure to appear was not intentional.[5][18][27]

Additionally, the declaration should address the consequences of failing to appear at a scheduled departure date or deportation, as this creates a record that the respondent understands the seriousness of compliance with any final removal order.[5][18][27][49] This is particularly important for respondents who may be unfamiliar with U.S. legal proceedings or who may harbor unrealistic expectations about the consequences of removal orders.

Acknowledgment of Frivolous Asylum Application Consequences

If the respondent is applying for asylum relief, the pleading declaration must include a specific statement that

the respondent has been advised of the consequences of knowingly filing or making a frivolous asylum application as specified in INA § 208(d)(6).[5][18][27][49] This advisal must inform the respondent that if the immigration judge determines that the asylum application is frivolous, the respondent will be permanently barred from seeking asylum, withholding of removal, and other humanitarian relief in any future proceeding.[5][18][27][49] Furthermore, the advisal must inform the respondent that a frivolous finding may result in referral to DHS for criminal prosecution under 18 U.S.C. § 1546(c), which carries criminal penalties.[5][18][27]

The importance of this advisal cannot be overstated. In the San Francisco Immigration Court and throughout the Ninth Circuit, immigration judges take frivolous asylum allegations very seriously, and the consequences of a frivolous finding are severe and permanent. Practitioners must ensure that they have explained these consequences to the respondent and documented that explanation in the pleading declaration before submitting an asylum application.

Acknowledgment of Biometrics Requirements

If the respondent's case involves background and security investigations requiring biometrics collection, the pleading declaration must include a statement that the respondent has received and understood the DHS biometrics instructions.[5][18][27][49] The declaration should specifically note that the respondent has been advised that under 8 C.F.R. § 1003.47(d), failure to provide biometrics or other biographical information within the time allowed constitutes abandonment of any applications for relief unless the respondent demonstrates good cause for the failure.[5][18][27][49][21]

This is a critical advisal, particularly in the context of the San Francisco Immigration Court, where cases are frequently delayed pending completion of background investigations. Many respondents do not receive DHS biometrics appointment notices, or the notices are sent to outdated addresses. Practitioners must ensure that: (1) the respondent has received the biometrics instructions; (2) the respondent understands the consequences of failure to comply; (3) the respondent has been advised to notify counsel if an appointment notice is not received within a specified period; and (4) counsel has a system for tracking biometrics completion or following up with USCIS if appointment notices are not received.[5][18][27]

Acknowledgment of Change of Address Requirements

The pleading declaration should include a statement that the respondent understands the requirement in 8 C.F.R. § 1003.15(d) to notify the immigration court within five days of any change of address or telephone number using Form EOIR-33/IC.[5][18][27] This acknowledgment is important because failure to notify the court of a change of address may result in the respondent missing hearing notices, which could result in an absentia removal order.[5][18][27]

Understanding and Agreement with the Pleading

Finally, the respondent's pleading declaration must include a statement that the respondent's attorney or representative has explained to the respondent what the written pleading says, that the respondent understands the pleading, that the respondent agrees with it, and that the respondent requests that the immigration judge accept it as the respondent's pleading.[5][18][27][49] This closing language creates a clear record that the pleading is being submitted with the respondent's full knowledge and consent.

Certification of Interpretation

If the respondent does not speak or read English fluently, a certificate of interpretation must accompany the pleading declaration.[5][18][27] The interpreter must certify that the interpreter is competent to interpret from

the respondent's native language into English and vice versa, that the interpreter has read the entire written pleading to the respondent in a language the respondent speaks fluently, and that the respondent stated that he or she understood the pleading before signing the declaration.[5][18][27][53] The interpreter must sign the certificate and provide the interpreter's name (typed or printed).[5][18][27][53]

Timing, Deadlines, and Case Flow Considerations

Triggering Events for Scheduling Orders and Written Pleadings

Under the revised case flow processing model established by Policy Memorandum 21-18, written pleadings become the default pathway in represented, non-detained removal cases when an attorney or accredited representative files a Form EOIR-28 at least fifteen days prior to a master calendar hearing.[9][12][20][30] When this triggering event occurs, the immigration judge does not hold a master calendar hearing but instead issues a scheduling order establishing deadlines for written pleadings submission and response by the government.[9][12][20][30] The language of the scheduling order issued by the immigration judge is critical, as it establishes the specific deadlines that will govern the remainder of the case flow in the removal proceedings.[9][12][20]

For cases where the attorney files a Form EOIR-28 less than fifteen days before a master calendar hearing, or does not file until the date of the master calendar hearing itself, the respondent and attorney are required to appear at the scheduled master calendar hearing.[9][12][20][30] At that hearing, if the attorney is not prepared to enter pleadings orally, the immigration judge will issue a scheduling order containing the deadlines for written pleadings described below.[9][12][20][30]

Standard Deadlines Following Vacated Master Calendar Hearing

When a scheduling order is issued following vacation of a master calendar hearing, the parties generally are given thirty days from the date of the vacated hearing to submit written pleadings and any evidence related to the charge or charges of removability.[9][12][20][30] This thirty-day period applies to both the respondent and the government. The respondent's initial written pleading must be filed within this period, and the government's response to the pleading should be filed within twenty days after the respondent's initial pleading is filed with the court.[9][12][20]

This timeline is important because it creates a structured process for determining removability without requiring an oral hearing, thus reducing court time and hearing resources while allowing both parties to submit written evidence and arguments.[9][12][20][30] Practitioners must carefully manage this timeline to ensure that the respondent's written pleading is filed early enough to allow the government adequate time to file a response, and to preserve the respondent's flexibility to respond to any government arguments if appropriate.[9][12][20]

Extensions of Filing Deadlines

Immigration judges retain authority under 8 C.F.R. § 1003.31(h) to extend filing deadlines upon motion showing good cause.[1][30][38] PM 21-18 explicitly contemplates that practitioners may seek extensions of the scheduling order deadlines by written motion, and specifically provides that "upon a showing of good cause, a representative may seek relief from the application of one or more provisions of a scheduling order by motion to the immigration judge." [9][55]

Good cause for extending the deadline for filing written pleadings might include: (1) the need for additional time to obtain evidence or declarations from persons in the respondent's country of origin regarding

persecution; (2) the need for additional time to obtain employment records, housing documents, or other documentation establishing the respondent's continuous presence or good moral character; (3) the need for additional time to obtain police clearance records or other official documents if the respondent has had difficulty locating them; or (4) the need for additional time to obtain country conditions evidence or expert declarations regarding persecution in the respondent's country of origin.[9][30] However, practitioners should note that extensions are not automatically granted, and the immigration judge will evaluate the diligence of the respondent and counsel in seeking additional time.

A motion for extension of the filing deadline should comply with the requirements for filing motions in Chapter 5 of the EOIR Policy Manual, which requires that motions be submitted with a cover page labeled with the motion title, that the motion clearly state the reasons for the request, and that the motion propose a revised deadline.[51][54] The motion should cite the specific facts demonstrating good cause and should include documentary evidence supporting the good cause showing if possible.[51][54] The government does not automatically have the right to oppose a motion for extension, but if the government opposes, the immigration judge will weigh the DHS opposition against the respondent's showing of good cause.

Post-Removability Determination Deadlines for Applications for Relief

If the immigration judge finds that removability has been established, the immigration judge issues a written order sustaining the charge or charges of removability, and then issues a subsequent scheduling order establishing the deadline for the submission of applications for relief or protection from removal and supporting documents.[9][12][20][30] The deadline for filing relief applications is generally sixty days from the date of the order finding removability, unless otherwise ordered by the immigration judge.[9][12][20][30] This sixty-day period provides time for respondents to prepare applications for asylum, cancellation of removal, withholding of removal, or other relief applications.

Importantly, amendments to relief applications and other supplemental filings must be submitted at least thirty days in advance of the individual calendar (merits) hearing, unless otherwise specified by the immigration judge.[9][20] This requirement creates a hard deadline for updating or correcting relief applications and reflects the immigration judge's need to have all evidence and positions clearly defined before the hearing begins.

For asylum applications specifically, if the respondent is filing a defensive asylum application (as opposed to having filed an affirmative asylum application with the USCIS Asylum Office prior to being placed in removal proceedings), the asylum application must be filed electronically, by mail, courier, in person at the court window, or in open court at a master calendar hearing.[20][44] The written pleading itself may include a statement that the respondent will be filing a defensive asylum application, and the respondent may request that the immigration judge set a deadline for the asylum application filing that is different from the general relief application deadline.[20][44]

Northern California-Specific Considerations and San Francisco Immigration Court Practice

San Francisco Immigration Court Locations and Filing Procedures

The San Francisco Immigration Court maintains multiple hearing locations serving Northern California. The primary locations are at 100 Montgomery Street, Suite 800, San Francisco; 630 Sansome Street, 4th Floor, Room 475, San Francisco; and a satellite hearing location at 1855 Gateway Boulevard, Suite 850, Concord, California. Written pleadings for cases assigned to any of these locations should be filed with the immigration

court having administrative control over the Record of Proceeding, as specified in 8 C.F.R. § 1003.31(f) and the EOIR Policy Manual.[1][38]

For cases eligible for electronic filing through ECAS, attorneys and accredited representatives are required to file written pleadings electronically rather than in paper format. The San Francisco Immigration Court clerk's office maintains current information regarding which cases are within the ECAS system and which remain on paper records of proceeding. Practitioners should verify the filing status of a particular case with the clerk's office before submitting written pleadings to ensure compliance with the electronic or paper filing requirement.

Ninth Circuit Precedent and Pleading Requirements

Practitioners appearing in the San Francisco Immigration Court are subject to Ninth Circuit precedent governing immigration proceedings. While the Ninth Circuit has not issued extensive guidance specifically addressing written pleadings procedures, the Circuit's decisions establishing due process requirements in immigration proceedings are directly applicable to the acceptance and validity of written pleadings.[1][3][5] The Ninth Circuit has consistently held that immigration judges must provide respondents with meaningful notice of the charges against them and meaningful opportunity to respond to those charges, and the use of written pleadings in lieu of oral hearings must preserve these fundamental due process protections.[1][3]

The Ninth Circuit's approach to concessions of removability and admissions in removal proceedings is particularly relevant. The Circuit has held that concessions of removability made by counsel must be knowing, voluntary, and made with full understanding of their consequences, and that immigration judges have authority to require oral testimony to confirm that a respondent understands the implications of a concession.[1][3] This principle applies with equal force to concessions made through written pleadings, and immigration judges in the Ninth Circuit frequently require respondents to confirm orally at a subsequent hearing that they understand and agree with the concessions stated in their written pleadings.

EOIR San Francisco Asylum Office Context

Many respondents in San Francisco removal proceedings have previously applied for asylum with the EOIR San Francisco Asylum Office before being referred to immigration court. The San Francisco Asylum Office maintains distinctive interview procedures and assessment practices that may be relevant to how written pleadings frame asylum claims. Practitioners should be aware that the San Francisco Asylum Office has historically taken a relatively sophisticated approach to persecution claims and has provided detailed written decisions explaining why asylum applications are approved or denied. When a respondent files a defensive asylum application in immigration court following denial by the Asylum Office, the written pleading should clearly explain why the respondent's circumstances have changed or why the asylum claim is being presented differently to the immigration judge than it was presented to the asylum officer.

California State Law Intersections

California state law creates important collateral consequences for immigration proceedings that practitioners must consider when drafting written pleadings. Under California Penal Code § 1473.7, a respondent convicted of a crime may file a motion to vacate the conviction if the conviction was obtained without proper advisal of immigration consequences or if counsel provided constitutionally ineffective assistance by failing to advise of immigration consequences. Similarly, under PC § 1203.43, certain immigrants convicted of specified offenses may obtain post-conviction relief. When a respondent in removal proceedings has prior criminal convictions, the written pleading may need to address whether the respondent is pursuing or intends to pursue state court post-conviction relief that might eliminate or modify the immigration consequences of the conviction.

Additionally, California's SB 54 (The Values Act) limits cooperation between state and local law enforcement and federal immigration authorities. This state-level protection may be relevant context for respondents claiming fear of government persecution in their country of origin, as it demonstrates the respondent's familiarity with legal protections for vulnerable populations.

Strategic Considerations and Tactical Advantages of Written Pleadings

When Written Pleadings Are Mandatory Versus Optional

Under the revised case flow processing model, written pleadings are mandatory rather than optional when an immigration judge issues a scheduling order requiring them.^{[9][12][20][30]} However, even in cases where written pleadings are not mandatory, practitioners often have the option to submit written pleadings voluntarily in lieu of appearing at a master calendar hearing.^{[3][5][9]} Understanding when written pleadings are strategically advantageous requires analysis of the individual case circumstances.

Written pleadings are strategically advantageous when the respondent's positions on removability and relief applications are clear and do not require oral testimony or detailed explanations. For respondents conceding removability and seeking discretionary relief such as cancellation of removal, written pleadings allow counsel to present a comprehensive narrative and documentary evidence of good moral character, continuous presence, and hardship without time constraints imposed by court scheduling. For respondents presenting persecution claims in asylum applications, written pleadings allow detailed factual narratives and country conditions evidence to be presented in a coherent, persuasive manner.

Disadvantages and Risks of Written Pleadings

Written pleadings also present certain risks and disadvantages that practitioners must carefully consider. First, written pleadings eliminate the opportunity for informal discussion or off-the-record settlement discussions that sometimes occur at master calendar hearings. If the government and respondent's counsel have not previously communicated about the case, a master calendar hearing provides an opportunity for such initial discussion and potential resolution without the need for full litigation of the case.

Second, written pleadings create a detailed documentary record of the respondent's positions, concessions, and claimed bases for relief. If the immigration judge denies relief or finds removability based on the respondent's own representations in the written pleading, that written record may make appellate challenges more difficult. Practitioners must therefore ensure that written pleadings are carefully and thoroughly drafted and do not contain admissions or statements that might later undermine appellate arguments.

Third, if a respondent is denied relief based on a finding in a written pleading that the respondent does not meet statutory requirements for relief, the respondent may have diminished opportunity to present live testimony explaining why the immigration judge's adverse findings are incorrect. At an oral hearing, a respondent can testify in response to questions, can clarify apparent inconsistencies, and can respond to government cross-examination in real time. In written proceedings, the respondent's narrative is fixed at the time of filing.

Circumstances Warranting Election of Oral Pleadings Over Written Pleadings

Even when written pleadings would be permitted by the immigration judge, practitioners should consider whether oral pleadings at a master calendar hearing might be strategically preferable. Oral pleadings are preferable when: (1) the respondent needs time to gather evidence before committing to a position on removability or relief applications; (2) the respondent's credibility is central to the relief application and the

respondent would benefit from appearing in person before the immigration judge at an early stage of the proceedings; (3) the respondent's case involves complex legal or factual issues that require discussion with the immigration judge to clarify; or (4) the practitioner has not yet had adequate opportunity to develop the factual record and believes that an oral hearing will provide valuable strategic information about the government's positions and evidence.

Practitioners who wish to preserve the right to an oral master calendar hearing should file the Form EOIR-28 less than fifteen days before the scheduled master calendar hearing, or should file a motion requesting that the immigration judge not vacate the master calendar hearing despite the early filing of the Form EOIR-28. Under PM 21-18, immigration judges have discretion to grant relief from the scheduling order requirements upon a showing of good cause, and a practitioner who articulates specific reasons for preferring an oral master calendar hearing may persuade the immigration judge to permit such a hearing despite early EOIR-28 filing.[9][55]

Common Compliance Defects and Remedial Procedures

Untimely Filing of Written Pleadings

8 C.F.R. § 1003.31(h) and 8 C.F.R. § 1003.23(a) establish that failure to file an application or document within the time set by the immigration judge results in waiver or deemed abandonment of that filing.[1][30][38] If a respondent's written pleading is not filed by the deadline established in the scheduling order, the respondent's opportunity to file that pleading is waived.[1][30][38]

If written pleadings are untimely filed, practitioners may file a motion to accept the untimely filing under the EOIR Policy Manual procedures for untimely filings.[30][54] Such a motion must explain the reasons for the late filing, show good cause for acceptance of the filing, and be supported by documentary evidence if possible such as affidavits or declarations explaining the delay.[30][54] Common grounds for accepting untimely filings include: (1) mail delay or delivery failure; (2) ECAS system outages or technical difficulties; (3) illness or incapacity of the practitioner or respondent preventing timely filing; (4) recent discovery of the filing deadline; or (5) other circumstances beyond the reasonable control of the practitioner or respondent.[30]

Defective Declarations or Missing Signatures

If a respondent's pleading declaration is not properly signed, or if an interpreter's certificate is missing or incomplete, the written pleading may be rejected as improperly filed.[1][30][38] Immigration court staff typically screen filings for basic compliance with filing requirements and will reject pleadings that lack required signatures or certification.[30] If a pleading is rejected, practitioners must correct the defects and refile the pleading promptly, ideally before the filing deadline expires.[30]

If the deadline for filing has passed and the pleading was rejected due to a defect, practitioners must file a motion to accept the untimely filing, explaining that the late filing results from the need to correct the defect identified in the rejection and requesting acceptance of the corrected pleading.[30] Immigration judges generally grant such motions when the defect was technical in nature and the corrected pleading is substantially similar to the original defective pleading.

Failure to Comply with Service Requirements

Chapter 3.2 of the EOIR Policy Manual requires that written pleadings be served on the opposing party contemporaneously with filing.[12][20][30] For represented respondents appearing through counsel, the opposing party is typically the Department of Homeland Security's Office of Chief Counsel for the

immigration court's jurisdiction. The written pleading must be accompanied by a certificate of service documenting that a copy has been served on the opposing party.[1][30][50]

If a written pleading is filed without a certificate of service or if the certificate indicates that service was not made on the opposing party, the pleading may be rejected or the immigration judge may order that copies be served before the pleading is considered. This can result in procedural delay and may affect the government's response deadline if the government receives the pleading late due to the service defect.

Conclusion: The Modern Practice of Written Pleadings in Immigration Court

Written pleadings have evolved from an occasional procedural option in immigration court proceedings to become the presumptive pathway for initial pleading in represented, non-detained removal cases following the implementation of Policy Memorandum 21-18 in April 2021.[9][55] For practitioners in the Northern California immigration courts, including the San Francisco Immigration Court and its satellite locations, written pleadings now represent the standard mechanism through which most respondents initially respond to the Notice to Appear and identify relief applications they intend to pursue.[9][12][20]

The extensive procedural and content requirements governing written pleadings, as established in 8 C.F.R. § 1003.31, the EOIR Policy Manual, and relevant case law, create a demanding compliance framework that requires careful attention to detail. Practitioners must ensure compliance with all formatting, signature, and certification requirements; must include all mandatory representations regarding attorney advisals and consequences; must clearly address admissions and denials of allegations and charges; and must include a properly executed respondent's pleading declaration confirming the respondent's understanding and agreement with the pleading.

The timing and deadline structures established in PM 21-18 create clear procedural pathways for case flow management but also require practitioners to anticipate filing deadlines well in advance and to manage multiple concurrent deadlines for different components of the removal proceedings. The standard thirty-day initial period for written pleadings submission, combined with the respondent's obligation to file relief applications within sixty days after a removability determination, creates a compressed timeline that demands prompt action and careful calendar management.

The strategic advantages of written pleadings—including the opportunity to present comprehensive narratives and documentary evidence without time constraints, the ability to incorporate country conditions evidence and expert declarations seamlessly into a coherent presentation, and the efficiency gains from avoiding multiple master calendar hearings—must be weighed against certain disadvantages, including the elimination of informal settlement discussions and the creation of a fixed documentary record that may limit appellate arguments.

For immigrants in Northern California facing removal proceedings, written pleadings offer an opportunity for counsel to present carefully crafted legal arguments and factual narratives demonstrating eligibility for relief. For practitioners, mastery of the requirements for written pleadings—including both the technical compliance elements and the substantive legal and factual components—is now essential to effective representation in removal proceedings before the immigration courts.

References

[1] 8 C.F.R. § 1003.31 - Filing documents and applications

- [3] EOIR Policy Manual Part II - Immigration Court Sample Written Pleading
- [5] Appendix L Sample Written Pleading
- [8] EOIR Policy Manual Appendices K - Example Pleading
- [9] Revised Case Flow Processing Before The Immigration Courts (PM 21-18)
- [10] Cancellation of Removal for Lawful Permanent Residents - Practitioner's Toolkit
- [12] EOIR Policy Manual 3.1 - Delivery and Receipt
- [14] Qualifying for Protection Under the Convention Against Torture
- [15] EOIR Policy Manual 4.15 - Master Calendar Hearing
- [16] 8 CFR Part 208 -- Procedures for Asylum and Withholding of Removal
- [18] APPENDIX L Sample Written Pleading - Department of Justice
- [20] EOIR Policy Manual 3.1 - Delivery and Receipt (Updated)
- [21] 8 CFR 1003.47 - Identity, law enforcement, or security
- [24] 8 CFR 1003.47 - Identity, law enforcement, or security (eCFR)
- [25] Appendix L - Example Oral Pleading
- [27] APPENDIX L Sample Written Pleading (Legacy)
- [30] EOIR Policy Manual 3.1 - Delivery and Receipt (Additional Reference)
- [31] EOIR-42A - Application for Cancellation of Removal for Certain Permanent Resident Aliens
- [32] The Asylum Procedures Rule
- [34] EOIR-42B Application for Cancellation of Removal and Adjustment of Status
- [36] EOIR Policy Manual 2.2 - Unrepresented Aliens
- [37] EOIR Policy Manual Appendices K - Example Pleading (Updated)
- [38] 8 CFR 1003.31 - Filing documents and applications (eCFR)
- [39] EOIR Policy Manual 2.1 - Representation and Appearances Generally
- [40] Immigration Court Practice Manual
- [41] 8 CFR 1003.31 - Filing documents and applications (eCFR - Updated)
- [43] EOIR Policy Manual 4.15 - Master Calendar Hearing
- [44] EOIR Policy Manual 3.1 - Delivery and Receipt (Asylum Applications)
- [45] Immigration Court Strategy - Tips for Presenting Asylum Cases
- [46] 8 CFR Part 1240 Subpart A -- Removal Proceedings
- [47] Filing for Asylum in Removal Proceedings Without an Attorney

- [48] Immigration Court Practice Manual - Table of Contents
- [49] APPENDIX L Sample Written Pleading (Final Reference)
- [50] EOIR Policy Manual 3.3 - Documents
- [51] EOIR Policy Manual 5.12 - Response to Motion
- [53] EOIR Policy Manual Appendices G - Certificate of Translation
- [54] EOIR Policy Manual 5.10 - Other Motions
- [55] EOIR Revises Case Flow Processing in April 2021 PM
- [58] Revised Case Flow Processing Before The Immigration Courts (PM 21-18 Full Text)